

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WALNER G. GACHETTE, individually
and d/b/a LBS TAX SERVICES, LOAN
BUY SELL, INC., GACHETTE, LLC,
WG GROUP, LLC, ZGT GROUP, LLC,
JGT GROUP, LLC, and INTERNATIONAL
HIRING, LLC,

Defendant.

Civil No. 6:14-CV-1539-ORL-37-KRS

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, for its complaint against Walner G. Gachette, individually and doing business as LBS Tax Services, Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, and International Hiring, LLC, alleges as follows:

1. This is a civil action brought by the United States under Internal Revenue Code (I.R.C.) (26 U.S.C.) §§ 7402, 7407, and 7408 to enjoin Gachette, and anyone in active concert or participation with him, from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (2) preparing or assisting in preparing federal tax returns that he knows or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;

- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

This action also seeks, under I.R.C. § 7402, an order requiring Gachette to disgorge to the United States the proceeds that Gachette and his businesses received for the preparation of federal tax returns that make false or fraudulent claims.

Jurisdiction and Venue

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. § 7402.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because the Defendant resides in this district and all or a substantial portion of the activities occurred within this district.

Defendant

5. Walner G. Gachette resides in Orlando, Florida. Gachette is the sole owner of Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, and International Hiring, LLC. Through these entities, Gachette owns and operates at least 56 tax return preparation stores in Florida, Georgia, Alabama, and Texas, doing business as LBS Tax Services. Gachette also franchises the name LBS Tax Services to franchisees throughout the Southeast United States. The 56 LBS Tax Services stores owned by Gachette prepared at least

7,600 federal income tax returns in 2013. Gachette graduated from the University of Central Florida in 2002 with a degree in Communications and Marketing. Gachette received an MBA with an emphasis in technology and marketing from the University of Phoenix in 2006. Gachette began preparing tax returns for customers in 2007 or 2008. Gachette is known as "Romeo" to LBS Tax Services employees.

6. LBS Tax Services is a tax return preparation business that Gachette created in 2008. Starting in 2011, Gachette began franchising LBS Tax Services stores. In 2013, there were at least 239 LBS Tax Services stores in Florida, Georgia, North Carolina, South Carolina, Tennessee, Alabama, Mississippi, and Texas. LBS Tax Services franchise stores prepared over 55,000 federal income tax returns in 2013.

7. Loan Buy Sell, Inc. is a corporation organized in the State of Florida. Gachette formed Loan Buy Sell, Inc. in 2006 and is the sole officer. Loan Buy Sell, Inc. does business at 4250 Alafaya Trail, Suite 212348, Oviedo, Florida 32757.

8. Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, and International Hiring, LLC are all Limited Liability Companies organized in the State of Florida. Gachette formed Gachette, LLC in 2011, and WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, and International Hiring, LLC in 2012. Gachette operates the LBS Tax Services stores that he owns through these entities.

9. This lawsuit is one of several being filed simultaneously against Gachette and LBS Tax Services franchisees, managers, and preparers (and/or former LBS Tax Services franchisees, managers, and preparers operating under new business names) seeking injunctive relief under the Internal Revenue Code. The other cases filed on this date are: *United States v. Douglas Mesadieu* (M.D. Fla.); *United States v. Jean R. Demesmin, et al.* (M.D. Fla.); *United*

States v. Kerny Pierre-Louis, et al. (M.D. Fla.); *United States v. Demetrius Scott* (M.D. Fla.); *United States v. Jason Stinson* (M.D. Fla.); *United States v. Wilfrid Antoine* (S.D. Fla.); and *United States v. Jacqueline Nunez* (S.D. Fla.).

10. The other lawsuits against LBS-affiliated individuals describe in detail the same fraudulent conduct alleged in this complaint. For example, the complaints against Douglas Mesadieu, Jean Demesmin, Kerny Pierre-Louis, Demetrius Scott, Jason Stinson, Wilfred Antoine, and Jacqueline Nunez all allege fabrication of Schedule A deductions, Schedule C business income and/or expenses, and Earned Income Tax Credits in order to generate bogus refunds for customers and maximum fees for LBS. This fraudulent conduct is pervasive throughout LBS.

LBS Tax Services' Business Structure

11. LBS Tax Services ("LBS") began in 2008 as a tax return preparation business in Orlando operated by Gachette. Gachette started the business not because he always wanted to be a commercial tax return preparer who provided an honest service to taxpayers or had any experience or training preparing tax returns, but because of his desire to make a lot of money after having his personal income tax return prepared by H&R Block and discovering how much he could charge to prepare tax returns. This purely financial motivation at the expense of honest, accurate tax preparation is reflected in the rampant greed and fraud that exists throughout LBS.

12. From 2008 to 2010, Gachette owned every LBS store and prepared customers' tax returns. Following the 2010 tax return filing season, Gachette began franchising the LBS name to his employees to broaden his revenue base, with franchisees beginning to operate their own LBS stores in 2011.

13. As part of his business strategy, Gachette began franchising LBS outside of Orlando and, ultimately, throughout the Southeast and Texas. According to Gachette, LBS grew to 2 stores in 2009, 6 stores in 2010, around 23 stores in 2011, around 68 stores in 2012, and over 200 stores in 2013. The IRS identified 27 LBS franchisees (whom Gachette refers to as owners) operating at least 239 locations in 2013.

14. LBS's stated goal is to have 1,000 tax return preparation stores by 2016. Consequently, if not enjoined, LBS's business model of fraudulent tax return preparation threatens to grow from a regional problem to a nationwide epidemic.

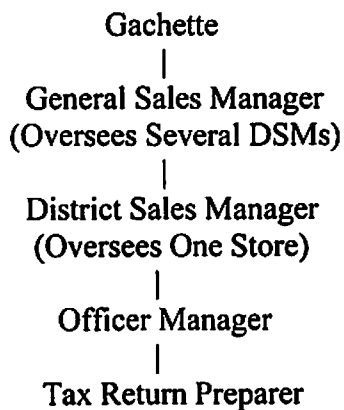
15. Most LBS franchisees live in the Orlando area but have opened stores throughout the Southeast in order to expand the LBS brand and comply with Gachette's rule that there be no more than two LBS stores per zip code.

16. LBS's general operational hierarchy consists of Gachette, the franchisor, who also owns several stores. Franchisees, who answer to Gachette, own one or more stores. Each individual LBS store is managed by a District Sales Manager ("DSM"), who works for Gachette or a franchisee, depending on who owns that store. DSMs, in turn, oversee office managers, tax return preparers, and marketers (employees whose sole job is to solicit customers).

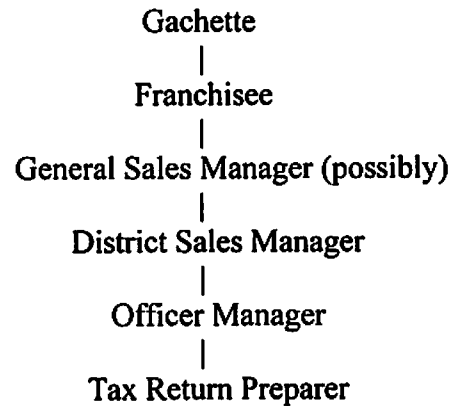
17. Also included within the LBS operational hierarchy are General Sales Managers and Area Managers (also known as Area Developers), who may also work as DSMs. General Sales Managers typically oversee several stores, often based on geography, and serve as an intermediary between a franchisee (or Gachette) and the DSMs. For example, according to one

of Gachette's General Sales Managers, they are the "first point of contact" for hiring issues or problems with employees at a specific store. Area Managers are responsible for conducting purported quality control checks of other stores owned by their employer (either Gachette or a franchisee):

Gachette-owned Stores



Franchisee-owned Stores



18. LBS lures prospective employees with promises of wealth and possible rapid advancement to franchisee level. One recruiting advertisement for LBS uses a graph to show

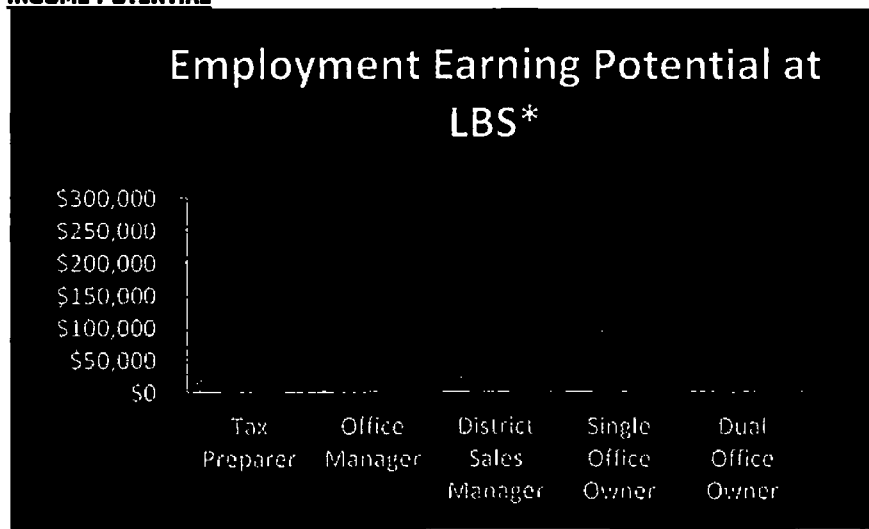
that for 4 months of work, LBS employees have the following earning potentials:

On-Site job training / Rapid advancement opportunity / Complimentary company

cell phone while employed / Most be self-motivated/ Will be IRS certified

Located at LBS••

INCOME POTENTIAL



Tax Preparer	\$5,000	\$10,000
Office Manager	\$10,000	\$15,000
DSM	\$25,000	\$66,000
Single Office Owner	\$90,000	\$160,000
Dual Office Owner	\$200,000	\$400,000

IN 4 MONTHS



19. LBS franchisees work as a DSM for two years before having the opportunity to become a franchisee (although initial franchisees typically served one year as a DSM). This ensures that new franchisees are familiar with LBS's business model and fraudulent practices.

20. Gachette requires that franchisees create LLCs through which they own their stores. Gachette has few other requirements to own a franchise. The only other requirements to become a LBS franchisee are paying a \$5,000 franchise fee to Gachette (in addition to other costs, described below), obtaining an Electronic Filing Identification Number from the IRS (which the franchisee should already have from their job as a DSM), learning how to input

information into the tax return preparation software (which also should have already been completed), and signing a franchise agreement drafted by Gachette. There is no requirement that the franchisee have any minimum knowledge of federal tax laws or accounting, or any other minimum education. Gachette claims that franchisees are also purportedly required to attend the annual IRS Forum in Orlando, which is a conference with seminars, exhibits, and speakers on tax law issues.

21. Similarly, DSMs and the tax return preparers that LBS franchisees employ are not required to have any tax return preparation experience, knowledge of federal tax laws or accounting, or minimum education. Rather, the focus is on finding potential employees who have “customer service” experience. For LBS tax return preparers, this often simply means previous employment at a fast food restaurant.

22. According to LBS, an LBS tax preparer’s job is “60% outside marketing and 40% tax filing.” LBS’s emphasis on marketing, rather than tax return preparation, is apparent.

23. Franchisees sign (or are supposed to sign) a franchise agreement, titled a “General Independent Contractor Agreement,” with Loan Buy Sell, Inc. that defines the relationship between the parties. Gachette signs the agreement on behalf of Loan Buy Sell, Inc.

24. First year costs for an LBS franchise total \$25,000 or more. These expenses include a \$5,000 franchising fee, \$5,000 for marketing, and \$50 “or more” in “service bureau” and “LBS transmittal” fees for each tax return filed. These payments are all made to Gachette. This does not include other miscellaneous expenses that a franchisee incurs, and which the franchise agreement requires be paid by the franchisee, such as for payroll, renting office space, equipment, supplies, and utilities.

25. The “service bureau” and “LBS transmittal” fees are simply fees to Gachette generated from every tax return prepared at an LBS store. The terms disguise the nature of these fees from customers – there is no “service bureau,” nor is there any “transmittal” cost. In 2013, these two fees totaled \$74 for each tax return filed.

26. Essentially, the \$5,000 franchise fee is for “buying” a zip code from LBS, as Gachette limits LBS franchises to two stores per zip code. Gachette recommends zip codes to franchisees where he believes new LBS stores should be opened based on demographic studies. LBS seeks to have most, if not all, of its offices in areas with lower income taxpayers.

27. Franchisees are required to use (and pay for) the LBS advertising and marketing created by Gachette. Gachette requires that franchisees select a marketing package that he has created. These packages differ based on the number of business cards, flyers, yard signs, and other advertising material within each package.

28. In addition to the first-year costs (and continuing miscellaneous office expenses and related operating costs), should the franchise agreement be renewed, each subsequent year the franchisee is required to pay Gachette \$5,000 for “Marketing Fees” and the “service bureau” and “LBS transmittal” fees.

29. Franchisees may open additional LBS Tax Services stores if they enter into a separate franchise agreement which requires another \$5,000 franchise fee and the annual \$5,000 marketing fee, in addition to the service bureau and transmittal fees paid to Gachette for every tax return filed.

30. Because Gachette’s primary objective is increasing his profits by promoting and growing the LBS brand, rather than preparing accurate tax returns, Gachette threatens franchisees with financial penalties for any bad publicity. The franchise agreement requires that

the franchisee pay Gachette 5% of the gross tax return preparer fees for the franchisee's office (not to exceed \$3,000) for any "tax season year" as "reimbursement for any potential bad coverage in the news that occurs during the tax season." Some franchisees claim that this provision has never been enforced, and characterize it as a threat from Gachette.

31. District Sales Managers enter into contracts, similar to the franchise agreements described above, with Loan Buy Sell, Inc. and the franchisee whose store he or she manages. Thus, Gachette also has a contract with every LBS store manager. The contract provides that payments are made to the DSM based on the number of customers at the DSM's store; the more customers that a store secures, the greater the financial benefit to the DSM, including a \$3,000 bonus if the store secures more than 500 customers. DSMs are also required to pay a fee, varying from \$2,500 to \$15,000 or more. The fee amount that a DSM contributes is dependent on LBS's classification of the DSM as a 15 percent, 25 percent, 70 percent, or other percentage stakeholder in the store that the DSM manages. The DSM's stake in his or her LBS store increases each year as steps towards becoming a franchisee.

32. Gachette and LBS emphasize the volume of tax returns as opposed to the accuracy. For example, the contract between franchisees and DSMs (and Gachette) provides that a DSM can be fired if by **January 18** the projected number of fees generated by tax returns to be filed by the DSM's store is less than \$35,000. The number is projected because the IRS does not allow returns to be filed until after this date - the IRS began accepting 2012 tax returns on January 30, 2013. In other words, before tax return filing is even permitted, DSMs are supposed to have solicited a sufficient number of customers to generate \$35,000 in fees.

33. The contracts with DSMs also contain the same language concerning the payment of service bureau and transmittal fees, and a financial penalty for bad publicity.

34. DSMs, in turn, hire tax return preparers and enter into employment agreements with the preparers that set forth, among other things, compensation and a two-year non-compete agreement. DSMs are purportedly required to train their tax return preparers based on the purported training that the DSMs received in Orlando from LBS.

35. Gachette's primary concern is that he receives his fees for every tax return prepared in a franchisee's store. To ensure that he is paid these fees, Gachette requires franchisees to use tax return preparation software which automatically deducts the service bureau and transmittal fees from customers' tax refunds, so that he can track and account for his fees. Gachette requires that the franchisees register every EFIN that they and their DSMs and employees use with the software provider to ensure that Gachette receives his fees directly from the customers' tax refunds, rather than from the franchisee or the DSM.

36. By mandating that his fees be deducted from refunds rather than requiring payment when the tax return is prepared, Gachette effectively requires that LBS prepares tax returns for customers that result in the customer receiving a tax refund, even in instances where legally the customer is not due a refund. In fact, some LBS employees that the IRS questioned were confused by the concept that a taxpayer could actually owe money to the IRS, and that LBS would, in such circumstances, be unable to collect its fees from a refund.

LBS Tax Services' "Training" and Lack of Quality Control

37. LBS does not provide any substantive tax law training. Gachette and other LBS-affiliated individuals provide week-long training to LBS franchisees and DSMs annually at an LBS facility in Orlando. This training focuses on LBS policies, particularly how to market to potential customers and solicit business, how to manage employees, and how to use the tax return preparation software.

38. Gachette holds frequent meetings and conference calls with franchisees and DSMs. These meetings or calls may discuss, among other things, LBS policies, fees, and marketing. For franchisee calls, Gachette is leading the calls. For DSM calls, if Gachette is not leading the call, he is, at least, participating. Gachette also provides copies of LBS's training and policy materials to franchisees and DSMs who attend these meetings, in addition to having franchisees and DSMs give presentations. Gachette emails (or directs his assistants to email) the LBS training and policy materials to franchisees and DSMs to ensure that anyone who does not participate in the in-person training or other meetings in Orlando has access to his training materials and copies of LBS's policies.

39. Gachette, franchisees, and DSMs train the tax return preparers employed at individual LBS stores. This training focuses on marketing and data entry to prepare tax returns and how to charge related fees to customers in accordance with LBS's policies.

40. Gachette and LBS actually train franchisees, DSMs, and tax return preparers how to prepare tax returns fraudulently in order to falsely and improperly maximize customers' tax refunds. LBS franchisees, DSMs, and tax return preparers are specifically trained to increase the tax return preparation fees charged to LBS customers as they increase the customers' bogus refunds. According to a DSM, DSMs who attended LBS's week-long training in Orlando in 2012 were taught how to use additional tax forms to increase customers' refunds and LBS's fees regardless of the customers' actual income and circumstances.

41. Gachette and LBS provide instruction sheets to tax return preparers that direct the preparers to input specific information into the tax preparation software to create the maximum bogus refund for customers. LBS preparers follow the instruction sheet to report customers' income within a specific range on their tax returns, even if the customers' actual income and

circumstances (married, having dependents) that they provide to the preparer conflicts with what the preparer inputs into the software. By following these instruction sheets, LBS generates bogus refunds. One such instruction sheet, frequently taped to the preparer's desk or on a wall next to the preparer's computer, indicated which boxes to check on the Earned Income Tax Credit checklist (IRS Form 8867) in order to make it appear as though the preparer complied with the "due diligence" requirements (discussed in more detail below) necessary to claim the credit (regardless of the information provided by customers and whether the customers actually qualify for the credit).

42. One LBS instruction sheet is brazenly captioned "Magic numbers." Preparers follow the instruction sheet, fabricating deductions on a Form 1040 Schedule A or creating bogus income or expenses on a Form 1040 Schedule C. The magic numbers sheet identifies the magic numbers as "16000-18000," and states that "anything lower then this you try to add income to get as close as possible" and "anything higher then this you try to take away income to get as close as possible."¹ The magic numbers sheet includes an example, for a customer who earned \$3,000 in wages, instructing the LBS tax preparer in such a situation to "input an income of 10000 on sch c" in order to falsely report the customer's income as \$13,000. The sheet also instructs the preparer to report unemployment income as Form W-2 wages. A similar LBS instruction sheet includes the following: "Magic range 16,000 to 18,000"; "If made less than 10,000 goal is to increase income so client to get more money (add forms to get them more money) add Schc"; "Made more than 24,000 you have to take income out so that you can get client more money. (add deductions) 2106, SchA." (emphasis added.) The purpose of

¹ All quotations in this Complaint are copied exactly as they appear on the source document, including any spelling, punctuation, typographical, or grammatical errors.

manipulating a customer's income in this manner is to falsely increase the amount of the Earned Income Tax Credit.

43. LBS franchisee Douglas Mesadieu, when deposed by the City of Orlando on August 26, 2013, testified that the "magic numbers would be how you can get – it's numbers where you can get the most amount for your client... [W]orking with numbers every day, you will know how to get your clients the max, you know how to get the least." Mesadieu further testified about "pushing numbers" to avoid detection from the IRS:

A lot of when I spoke about pushing numbers, you don't want to be in the sweet spot every time. You don't want to – because that's a – basically, I mean, that's a red flag. You cannot be in a sweet spot every time, so you know – you're aware of your sweet spot, and you don't want to put a return where your client is getting the max every time because it would implement (sic) that you have a pattern. It would implement that something is wrong. Sweet spot is just for people to actually know and understand what not to do on certain circumstances, or what they can do on other circumstances.

44. Gachette also creates scripts directing LBS employees on how to interact with customers and potential customers. One script used by LBS informs customers that they will be receiving a refund, although not all customers legally qualify for a refund:

SCRIPT:

There are three things that I am going to do for you today

1. I'm going to enter you information into the system
2. I will tell you how much your refund will be and
3. I will look for more forms and ways to get you more money legally, ok?

45. Another script for LBS employees instructed them what to say if a customer questioned the fees that LBS charged. The script helps the preparer explain to the customer how LBS claimed a higher refund by including undocumented claims and deductions. The script is

illustrative of the fraudulent and bogus nature of the claims, which have no basis in fact, that

LBS includes on its customers' tax return:

Explain what you did for them to get them back the extra money and advise them that you will gladly reduce their return to \$_____ and reduce the charge also.

Eg 1. I helped you receive more money \$_____ by adding daycare and you have no proof of daycare.

Eg. 2. I helped you receive more money \$_____ with self employment income and you have no receipts

Eg. 3. I helped you receive more money \$_____ with education credits and you have no proof.

The fact that LBS offers to remove the additional forms and the associated fees if the customer is not comfortable with LBS's tax return preparation further illustrates the bogus nature of the claims LBS makes on those additional forms; if those forms were based on fact and were proper and actually required, they would be attached to the tax return.

46. LBS fails to teach its franchisees, DSMs, and tax return preparers crucial elements related to basic tax return preparation. For example, it provides no genuine instruction on the legal requirements to claim the Earned Income Tax Credit and the related due diligence requirements, procedures for detecting fraudulent Forms W-2, and the methods to question customers who provide suspicious, false, or fraudulent information. To the contrary, Gachette and LBS affirmatively instruct franchisees, DSMs, and preparers how to prepare returns that improperly claims bogus refunds based on false claims, credits, and deductions and to maximize the fees extracted from those refunds.

47. Gachette and LBS franchisees and employees give presentations to DSMs at the training in Orlando. DSMs are shown a power point presentation titled "Top 10 Things District

Sales Managers Need to Know.” The top ten list does not include any training on tax law. The power point focuses on marketing, hiring employees, interacting with customers (including selling tax return preparation to “hesitant” customers through scripts and “rebuttals”), how to maintain and organize files, and what to wear and not wear in the office.

48. The scripts to talk to customers are the primary focus of the training provided to LBS employees. LBS requires employees to memorize the scripts to solicit customers face-to-face and over the phone, and when preparing tax returns and attempting to coerce customers to agree to the inclusion of additional (and improper/false) IRS forms with, and bogus claims on, their tax returns. The purpose of these scripts is to solicit customers and, once those customers have come in the door, to run up the tax return preparation fees by attaching forms to the return at an additional charge to the customer. LBS includes bogus claims, credits, and deductions on these forms to generate a higher refund for the customer, and uses this higher refund to justify its additional tax return preparation fees.

49. As part of the training session, LBS gives its DSMs a “test” approved by Gachette. The majority of the “test” and training is dedicated to marketing and soliciting business. The “test” also addresses LBS policies, such as how to maintain customer files and the fact that LBS’s tax return season “begins on December 26th.”

50. The training questions in the LBS “test” focus on data entry in the Drake software (the provider of the tax return preparation software that LBS licenses and uses to prepare LBS customers’ tax returns) and, in particular, how to input information on the forms that will generate the maximum (and bogus) refund for customers.

51. To the extent that the test addresses tax return preparation, the questions are very basic and, not surprisingly, the acceptable answers are not thorough and, occasionally, entirely incorrect.

52. The LBS “test” lists “Identification, Social Security Card, W-2, 1099” as the documents that a customer is purportedly required to provide to have their tax return prepared.

53. While Gachette claims that all DSMs are required to take and pass the “test,” Gachette does not even know whether DSMs who do not attend his training sessions in Orlando actually take and/or pass the “test.” According to Gachette, its an “honor thing.”

54. DSMs, in turn, are purportedly required to train the tax return preparers at their stores. However, the training slides in the top ten list power point presentation only pertain to marketing and Drake software. For example, the first slide regarding training, captioned “How to Train,” discusses teaching the “Appointment setting ‘on-the-spot’ script,” “Telephone script,” and “Presentation script” to employees. There is no instruction on how to convey to employees even basic tax law concepts, how to explain IRS forms such as a 1040, or how to train tax return preparers to actually prepare tax returns.

55. LBS also trains its franchisees, DSMs, and preparers how to use Drake software to prepare tax returns. However, Drake software does not train preparers on tax law, and the training is limited to data entry and practice tax returns so that preparers know where to enter information in the software. Drake software itself does not provide in-person training. As one LBS franchisee stated about Drake, “they don’t give you tax advice....you can call and ask them about anything about tax and stuff. They won’t know.”

56. Incredulously, Gachette claims that the IRS, not he, is responsible for providing tax training to LBS franchisees and tax return preparers. Gachette claims that his job is simply to

recruit people for his business, and then it is up to the IRS and Drake software to train those people on how to prepare tax returns. Contrary to Gachette's claims, the IRS and Drake software do not train LBS employees on tax law or proper tax return preparation, nor is it the IRS's duty to train LBS employees how to prepare honest, accurate tax returns. That is Gachette and LBS's responsibility, which they are completely and utterly failing to meet.

57. The IRS requires that individuals applying for an Electronic Filer Identification Number ("EFIN"), such as LBS franchisees and DSMs, complete an application and submit to a background check. The IRS does not provide training on tax law or tax return preparation in connection with its EFIN application. The requirements to obtain an EFIN are available at: <http://www.irs.gov/Tax-Professionals/e-File-Providers-&-Partners/Become-an-Authorized-e-file-Provider>.

58. An EFIN is a unique number that clearly identifies the authorized provider and the location where the return was prepared. Before a person may prepare and electronically transmit tax returns for customers, he or she must obtain authorization from the IRS to become an authorized provider. Every authorized provider must apply for and receive an EFIN from the IRS. The EFIN requirement is not a means for the IRS to "train" applicants on tax law or how to prepare tax returns.

59. DSMs serve as the Electronic Return Originator ("ERO") for their store. ERO is an Internal Revenue Service designation for the person or entity that electronically submits tax returns on behalf of customers. EROs are identified by their registered EFIN and are responsible for preparing and filing with each tax return an IRS Form 8879, "IRS e-file Signature Authorization." Form 8879 is a signature authorization for an e-filed return filed by an ERO on behalf of a customer.

60. IRS Publication 1345 requires that an ERO “be diligent in recognizing fraud and abuse, reporting it to the IRS and preventing it when possible.” Gachette and LBS conduct no meaningful quality control or oversight over their tax return preparers, much less act diligently to prevent the fraud and abuse that is undertaken with respect to the preparation of customers’ tax returns. Indeed, fraudulent return preparation is encouraged and flourishes at many LBS stores.

61. The only supposed quality control that Gachette conducts is purportedly having “Area Managers,” also known as “Area Developers,” conduct occasional reviews of other LBS Tax Services offices. These reviews consist of making sure that employees are dressed properly, that customer files are labeled and filed alphabetically, that the “presentation script and EIC Notes cheat sheet” (which lists the answers that must be input into Drake software to complete to claim the Earned Income Tax Credit for a client) are “taped on desk,” and that the “forms order cheat sheet” (listing the order of forms that must be signed and placed in a customer’s file) is posted “on the wall.” The reviews also purportedly require the Area Manager to review up to five customer files for quality control; however, the Area Manager does not review whether the customers’ tax returns were properly prepared, but only whether certain forms are maintained in the files.

Defendant’s Fraudulent Activity

62. Gachette and those acting in concert with him and at his direction have created and maintain a business environment and culture of greed at LBS that expressly promotes and encourages the preparation of false and fraudulent federal income tax returns in order to maximize corporate and individual profits. By doing so, Gachette and LBS profit at the expense of their customers and the United States Treasury.

63. Many of LBS's customers have low incomes and are unsophisticated with respect to tax law and tax return preparation. Customers often have no knowledge that LBS prepares and files fraudulent tax returns on their behalf. For others, LBS preparers—with Gachette's consent and urging—mislead customers about the law, particularly with respect to various credits and deductions, and by promising them thousands of dollars of (illegal) refunds to coerce them to pay LBS to prepare their tax returns. Gachette benefits by receiving a significant portion of LBS customers' fraudulently obtained refunds, which he retains through fees.

64. Gachette instructs, directs, assists, advises, encourages, and causes LBS's franchisees, managers, and preparers to engage in illegal practices. These practices include, but are not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit;
- b. Circumventing due diligence requirements in order to fraudulently maximize the Earned Income Tax Credit;
- c. Improperly claiming false filing status, such as Head of Household when the customer is actually married;
- d. Fabricating Schedule C businesses and related business income and expenses;
- e. Fabricating Schedule A deductions, including but not limited to deductions for unreimbursed employee business expenses and automobile expenses;
- f. Falsely claiming education credits to which their customers are not entitled;
- g. Reporting inflated federal income tax withholdings that far exceed the amounts actually reported on customers' Forms W-2;
- h. Improperly preparing returns based on paystubs rather than Forms W-2;
- i. Falsely claiming the Fuel Tax Credit;
- j. Preparing amended tax returns for previous years to include bogus claims and credits on returns that were properly and accurately prepared elsewhere;

- k. Filing federal income tax returns without the taxpayer's knowledge or consent;
- l. Failing to provide customers with a copy of the completed tax return;
- m. Guaranteeing refunds; and
- n. Charging deceptive and unconscionable fees.

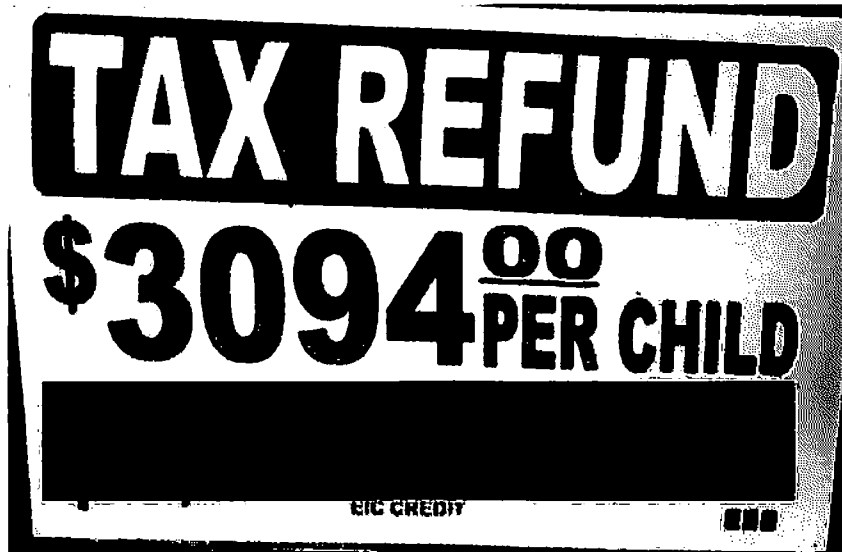
LBS Tax Services' "Guerilla Marketing"

65. LBS solicits customers through what Gachette calls "Guerilla Marketing." "Guerilla Marketing" involves misleading advertising and aggressive in-your-face individual sales pitches, targeted at low income individuals. The purpose is to get as many potential customers in the door, prepare their tax returns, and prepare and attach to their tax returns additional and unnecessary forms containing bogus claims and credits, under the guise that LBS is doing so in order to legally increase the customer's tax refund.

66. LBS charges the customer exorbitant fees for preparing the return, for each form prepared and attached to the return, and for filing the return. LBS makes fraudulent claims on these forms, in order to improperly increase customers' refunds. LBS then falsely tells the customers that these forms legally increased the customers' refunds, and charges higher fees due to the additional forms and the higher refund that LBS claimed. These fees are all deducted from the customer's tax refund, often without the customer being told the amount that LBS actually charged for preparing the tax return.

67. "Guerilla Marketing" begins long before the tax filing season begins. LBS advertising focuses on the Earned Income Tax Credit, with yard signs, flyers, and business cards

that simply state, for example, that a potential customer can receive “\$3094.00 per child” from the IRS and listing an LBS phone number to call:



(telephone number redacted.)

68. LBS employees are instructed to approach potential customers, ask whether they have children, hand out business cards, put up yard signs, and lure the potential customers to the LBS stores with promises of large refunds. This marketing occurs predominantly at large-scale retailers and grocery stores (marketers are specifically directed to solicit business at Wal-Mart), dollar stores, apartment complexes, public plazas, and large public events where LBS believes it can find potential customers who fit the low income demographic that it targets. LBS has also used radio ads, automated telephone calls, flyers on parked cars, billboards, and letters or mailers to previous or potential customers.

69. LBS’s “Guerilla Marketing” is so aggressive that Gachette anticipates and accounts for the related fines that are inevitably imposed against LBS’s stores by cities and municipalities for violations of local ordinances, particularly regulations pertaining to signs and advertising placed alongside streets. LBS’s franchise agreements provide that the first \$500 in

finances are paid by the franchisee, with any additional amounts paid by DSMs. In reality, franchisees have been assessed thousands of dollars in fines because their advertising violates local ordinances, which they pay as a cost of doing business.

70. DSMs are instructed that if the “city comes to your office, you should apologize and beg; say you weren’t aware of the rules,” and then go put out “200 yard signs 3 miles away from your office in each direction” at midnight. If a DSM receives a “letter before February 14th saying you have to go to court,” the DSM is instructed to “call the courthouse, tell them you have an emergency and can come to court any day in March.” The purpose of this is to avoid going to court until LBS’s tax preparation and filing season is effectively over.

71. LBS recruits and employs individuals, referred to as marketers, whose sole job is to solicit customers. Marketers are paid \$10 for each referral and, according to Gachette, earn \$5,000 per year on average.

72. Marketers are trained to “be discrete (pretend your shopping)” and “be careful for security that will kick you out.” The suggested times to market are “Before work, noon, 6-7 PM and midnight.” Marketers are advised to avoid security guards and store employees who will make them leave the premises.

73. LBS provides scripts to marketers (in addition to its managers and tax return preparers) on how to solicit customers. One script contains general introductory language, with three variations (depending on the date) used to schedule an appointment for the customer to have his or her tax return prepared. In all three variations, the script begins:

“Hi, I’m John a tax preparer. This year the IRS is giving \$3000 dollars per kid. What’s your name? How many kids do you have?”

[The script uses the answer of two children as the example.]

“Perfect, I can get you \$6000 to \$7000 dollars legally.”

From December 6 to December 26, before the tax year is even over, the script concludes:

“Do you have you last paycheck stub?”

If the customer says no, the script continues: **“OK, What’s your name and number; I will have my secretary give you a call after Christmas to give you directions to the office one hour before.”**

From December 26 to January 8, the script concludes:

“Do you have you last paycheck stub?”

If the customer says yes, the script continues: **“I can do your taxes with that, what time and date can you come to my office?”**

From January 8 to March 14, the script concludes:

“Do you have your W2?”

If the customer says yes, the script continues: **“What time and date works best for you to come to my office?”**

(emphasis added.)

74. Of course, the IRS does not “give” taxpayers \$3,000 per child. Whether a taxpayer is entitled to a credit, such as the Earned Income Tax Credit or Child Tax Credit, and the amount of the credit that the taxpayer can claim, depends on numerous factors, including whether the child lives with the taxpayer, whether the taxpayer financially supports the child, and the age of the child.

75. LBS also provides similar scripts to tax return preparers and administrative staff at each store.

76. Instead of focusing on honest, accurate tax return preparation, LBS’s business model is result-oriented. LBS instructs preparers to **“SELL ON FEAR!”** and to **“ALWAYS try**

to get the customer more than they received the last year filed taxes.” LBS’s power point presentation at its training session reiterates the script that preparers are repeatedly taught: “If you agree I will leave the forms, If you don’t I will take them off” – BUILDS TRUST!” If a customer hesitates, preparers are told to keep reiterating the portion of the script about how each form will get the customer more money from the IRS, and if the customer appears ready to walk away, preparers are instructed to get a DSM to help convince the customer to agree to the LBS’s return preparation. As mentioned above, at least one script instructs the preparer to tell the customer how much extra money the preparer claimed for the customer when, in fact, the customer had “no proof” to support such a claim.

77. LBS employees speaking with potential customers over the phone are instructed to entice the customer by deceptively declaring how much money LBS can get refunded to the customer. For example, if a potential customer questions whether an LBS sign, business card, or radio ad was correct in saying the potential customer could get a tax refund of “\$3169 per child,” the employee is instructed to respond that the potential customer “can get this much per child,” ask how many children the potential customer has, and then tell the customer that “I can get you anywhere from 6-8 thousand” or “I can get you anywhere from 8-9 thousand,” depending on whether the customer has 2 or 3 children. If the potential customer responds by questioning whether there is an income limit for the child credit, the employee is instructed to say that LBS “specialize[s] in maximizing your refund so come on in and we will show you exactly what you are entitled to.”

78. The LBS scripts setting forth what employees are required to say upon completing customers’ tax returns (or, more specifically, the Form 1040) are egregious and show a blatant

disregard of the law. Once an LBS employee has completed the Form 1040, he or she is instructed to say to customers:

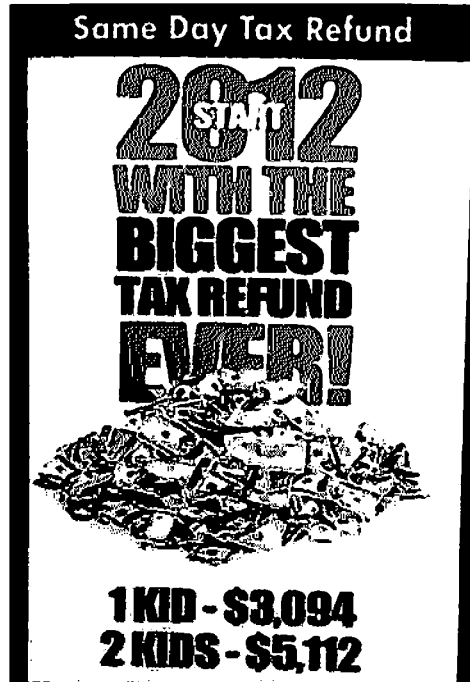
“At this time I am getting you back \$ [amount]. Ma’am or Sir, I can search for more forms to get you more money legally. Each form I use will cost you more but you get more money. For instance, I see I can get you an extra \$3000 by using 7 more forms and each form cost[s] about \$75.00. At the end I will let you know how much your refund will be, minus our fees. If you agree I will leave the forms on, if you don’t agree, I will take them off.”

LBS cannot legally “get” a customer \$3,000 by “using forms” (for example, the 7 forms in the above script). Individuals receive a refund if it is legally owed and based on the honest reporting of facts, not, as is the case with LBS’s tax return preparation, by adding to tax returns forms that do not apply and that customers do not understand. LBS entices customers with the possibility of a bigger (albeit fraudulent) refund based on LBS’s addition of forms to customers’ tax returns but, in reality, a form or schedule applies or does not apply and must be attached to a return only based on customer-specific facts or circumstances.

79. LBS’s tax return preparation is result-oriented, rather than being honest and accurate. LBS’s tax return preparation is based on maximizing LBS’s own profits by drawing customers into a web of deception with promises of money, which comes in the form of bogus refunds issued by the U.S. Treasury as a direct result of the fraudulent claims made on LBS-prepared tax returns.

80. LBS primarily solicits business using deceptive marketing focusing on the Earned Income Tax Credit, particularly as it relates to claiming dependents. During the 2012 filing

season, in addition to the yard signs which read “Tax Refund \$3094.00 per child,” LBS also passed out the following business cards to potential customers:



81. LBS also advertises using social media, including Facebook and Twitter. The Twitter account of an LBS store located in Charlotte, North Carolina, included the following entry dated January 3, 2013: “Did you know that the IRS is giving out \$3169 per child this year? Come in and we'll tell you all about it! W2 or last pay stub needed[.]” An LBS store in Gainesville, Florida repeatedly tweeted the following statement from December 2012 through February 2013: “\$3169 PER CHILD! \$3169 PER CHILD! \$3169 PER CHILD!” Similarly, the Twitter account of an LBS store in Miami, Florida tweeted on December 27, 2011: “Do you make 10-30k a year? If you have 1 kid(\$4-5k), 2 kids (\$6-7k) 3 kids\$8-9000 or more legally! set your appt today!”

82. LBS’s advertisements regarding the Earned Income Tax Credit are misleading, at best, because the amount of the credit depends on several factors, such as income, marital status,

and whether the child actually qualified as a dependent. LBS's advertisements simply recite the maximum amount of the credit that a qualifying taxpayer may be eligible to receive per child with no mention, let alone explanation, of the criteria that must be met to qualify for such an amount. Rather the advertisements clearly suggest that if you have children you will receive refunds of \$3,094 for one child and \$5,112 for two children. Moreover, preparing tax returns using a taxpayer's pay stub, as advertised, rather than a Form W-2, violates IRS regulations. And, of course, the IRS does not issue a "same day tax refund."

83. LBS effectively offers guarantees to its customers that they will receive refunds. LBS's advertising clearly suggests that customers with children will receive a refund. Some of the ads specifically refer to "EIC," and for those that do not, it is evident, based on the specific amount identified in the ads and the income demographic that LBS targets, that the approximately \$3,000 "per child" is due to the Earned Income Tax Credit. In addition, the "three things that I am going to do for you today" script that LBS requires employees to memorize and recite explicitly states, "I will tell you how much your refund will be." Guaranteeing the payment of any tax refund or the allowance of any tax credit violates 26 U.S.C. § 7407(b)(1)(C). LBS's tax return preparation practices ensure that customers do receive a refund, frequently based on bogus claims for the Earned Income Tax Credit.

Earned Income Tax Credit Fraud and Failure to Comply with Due Diligence Requirements

84. Gachette and LBS franchisees, managers, and tax return preparers prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (EITC) often based on bogus dependents, fabricated business income and expenses, and/or false filing status.

85. The EITC is a refundable tax credit available to certain low-income working people. The amount of the credit is based on the taxpayer's income, filing status, and claimed

number of dependents. The requirements for claiming the EITC are set forth in I.R.C. § 32 and the accompanying Treasury Regulations.

86. Because the EITC is a refundable credit, claiming an EITC can, in certain circumstances, reduce a taxpayer's federal tax liability below zero, entitling the taxpayer to a payment from the U.S. Treasury.

87. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming multiple dependents and, for certain income ranges, individuals with higher earned income are entitled to a larger credit than those with lower earned income. The amount of the credit increases as income increases between \$1 and \$13,050, and decreases as income increases beyond \$17,100. Some tax preparers who manipulate reported income to maximize the EITC refer to this range of earned income corresponding to a maximum EITC as the "sweet spot" or "golden range." For tax year 2012, the maximum EITC was \$5,891 and was available to eligible individuals with three dependent children who earned income between \$13,050 and \$17,100.

88. Because of the way the EITC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to offset higher income to decrease the total reported income and to fall within the "sweet spot" allows customers to claim a larger refundable credit.

89. To solicit business, LBS uses enticements of higher refunds based on the number of children that a potential customer has.

90. Gachette and LBS's franchisees, DSMs, and preparers acting at his direction and with his knowledge and consent, falsify information to claim the maximum EITC for customers. Unscrupulous tax return preparers at LBS exploit the rules by claiming on their customers'

returns bogus dependents and/or by reporting phony Schedule C businesses and income.

Consistent with the “magic numbers” instruction sheet, to bring the customer’s reported earned income within the “sweet spot” for the EITC, and depending on a customer’s actual income, LBS preparers inflate or fabricate Schedule C income to fraudulently increase customers’ reported earned income, or claim bogus Schedule C expenses to fraudulently decrease customers’ reported earned income.

91. Reporting bogus income not only improperly enables LBS to falsely claim the EITC, but to fraudulently claim other credits as well, including the Child Tax Credit and American Opportunity Tax Credit.

92. Schedule C fraud is a means by which unscrupulous tax return preparers, like many of those at LBS, manipulate customers’ income in order to obtain bogus refunds based on fictitious claims for the EITC and other credits. Because of the amount of the EITC credit, these preparers frequently charge higher fees in connection with their preparation of bogus Schedules C. Of the fees that LBS charges per IRS form, it charges \$250 or more for a Schedule C, the most for any form.

93. Many LBS preparers also report bogus “Household Help” income on customers’ tax returns to falsely report earned income to qualify customers for the EITC.

94. Household Help (“HSH”) income is paid to individuals typically hired to perform household work, and these individuals are considered employees of the person for whom they perform the household work; the employer determines and controls the work performed by the individual. The individual receiving the income may be paid in cash or non-cash benefits, on an hourly, weekly, or monthly basis, for jobs such as babysitting, house cleaning, yard work, health

care, or driving. Individuals who receive HSH income are supposed to receive Forms W-2 reporting income received and taxes withheld, just like any other employment.

95. Many LBS preparers report the bogus HSH income on Line 7 of the Form 1040 tax return. IRS records do not show that Forms W-2 were issued by any employers for LBS's customers for whom LBS reported HSH income.

96. For example, customer S.P. had her 2012 tax return prepared at the LBS store located at 601 N. Orlando Ave., Maitland, Florida. LBS falsely claimed HSH income in the amount of \$4,852 on S.P.'s tax return without her knowledge. Indeed, LBS never provided S.P. with a copy of her tax return. In reality, S.P.'s only income in 2012 came from two jobs, both of which issued her a Form W-2, and S.P. did not tell LBS that she had any other income. By falsely reporting HSH income in addition to S.P.'s actual wages, LBS improperly claimed the EITC in the amount of \$3,120 and a bogus refund of \$4,375.

97. Because of the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose "due diligence" requirements on federal tax return preparers claiming the EITC for their customers. *See* 26 U.S.C. § 6695(g). These "due diligence" requirements obligate the tax return preparer to make "reasonable inquiries" to ensure the customer is legitimately entitled to the EITC. The tax return preparer may not "ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete." *See* 26 C.F.R. § 1.6695-2 (2011). Tax return preparers must also document their compliance with these requirements and keep that documentation for three years. *Id.*

98. To document compliance with the due diligence requirements, tax return preparers must complete either the "Paid Preparer's Earned Income Credit Checklist" (Form 8867) and record and maintain other documentation verifying customer eligibility for the EITC.

99. As mentioned above, LBS provides its preparers with specific instructions or cheat sheets that provide predetermined answers to input into the Drake software to claim the EITC on customers' returns, and dictate what boxes to check on the IRS Form 8867, "Paid Preparer's Earned Income Credit Checklist." These instructions – and the predetermined answers – demonstrate that the actual information (if any) provided by customers is disregarded by preparers, who simply answer the questions in the manner that LBS instructs in order to claim the EITC for customers who are not actually eligible for the credit (or for the inflated amount claimed by LBS):

EITC 2 NOTES:
<p>SITUATION 1:</p> <ul style="list-style-type: none"> -W2 taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children....." - click "not applicable" "taxpayers with self-employment income." <p>SITUATION 2:</p> <ul style="list-style-type: none"> -Schedule C taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children....." - Question 2.) Fill out how many years the business has been in existence - Question 3.) Fill in "self" - Question 4.) Click "no" - Question 4b.) Type "by income only" - Question 5.) Click "yes" - Question 5a.) Click "log books" - Question 6.) "No" if there are no 1099-misc forms to support income, "yes" for 1099 taxpayer - Question 6b.) "Yes" - Question 7.) "Yes" - Question 8.) "Yes" - Question 9.) "No"

100. A portion of a similar LBS instruction sheet is below (the Drake software questions are followed by the predetermined answers in bold):

EIC2 INCOME (NOT A SCH C)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? **CHECK YES**
TAXPAYERS WITH SELF-EMPLOYMENT INCOME: **CHECK NOT APPLICABLE**

EIC2 INCOME (W/SCH C)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? **CHECK YES**
HOW LONG HAVE YOU OWNED YOUR BUSINESS? **1 YEAR**

CAN YOU PROVIDE ALL DOCUMENTATION TO SUBSTANTIATE YOUR BUSINESS? **CHECK RECEIPTS OR RECEIPT BOOK**
WHO MAINTAINS THE BUSINESS RECORDS? **SELF**

DO YOU MAINTAIN SEPARATE BANKING ACCOUNTS FOR PERSONAL AND BUSINESS TRANSACTIONS? **CHECK NO**
IF "NO" HOW DO YOU DIFFERENTIATE BETWEEN PERSONAL AND BUSINESS TRANSACTIONS AND MONETARY ASSETS? **CASH LOG**
WERE SATISFACTORY RECORDS OF INCOME AND EXPENSE PROVIDED? **CHECK YES**

IF "YES" IN WHAT FORM WERE THESE RECORDS PROVIDED? **CHECK PAID INVOICES**
FORM 1099-MISC NO/YES/YES/YES/NO

101. Because the Forms 8867 EITC Checklists that LBS generates are based on instruction sheets providing pre-determined answers showing that customers are eligible for the EITC, these forms, maintained in customers' files, appear to be complete, accurate, and based on statements and documentation provided by customers. In reality, because the answers are pre-determined, the only function of the LBS-completed Form 8867 EITC Checklist is to give the illusion that LBS complies with the due diligence requirements.

102. A closer review of LBS customer files reveals that Gachette and many LBS franchisees, managers, and preparers utterly fail to comply with the due diligence requirements. Customers are given an intake form to complete, which is comprised of several sections. The first few sections request basic information such as name, address, social security number, filing status, and dependents. The final section pertains to any business that the customer operated. Often these intake forms are not fully completed by the customer, if they are marked at all. In

many instances the LBS preparer entirely disregards the customer's responses on the intake form.

103. The LBS intake form apparently serves no other purpose than to give the illusion that LBS is questioning its customers and complying with the due diligence requirements. Frequently LBS preparers, rather than the customers, complete the form to support the claims that the preparer is fabricating on customers' tax returns.

104. The IRS has conducted at least seven investigations of LBS stores to determine whether its preparers complied with the due diligence requirements, resulting in the assessment of at least \$119,900 in penalties against Gachette and LBS franchisees and DSMs for violations of 26 U.S.C. § 6695(g).

105. In 2012, the IRS assessed \$3,800 against Gachette for 38 violations of 26 U.S.C. § 6695(g). The IRS selected 38 tax returns for tax year 2010 identifying Gachette as the paid preparer, and determined that Gachette failed to comply with the due diligence requirements for all 38 returns.

106. The conduct of Gachette and many LBS franchisees, managers, and preparers shows an intentional disregard for the tax laws and in particular for the due diligence requirements, and demonstrates their unwillingness to comply with the requirements. Not only do Gachette and many LBS franchisees, managers, and preparers fail to adhere to the due diligence requirements, but they are falsifying information in order to maximize the EITC for their customers.

107. LBS's preparers fill out their customers' information sheets (and other forms maintained in customer files) to support the false claims that the preparer made on the customer's tax return.

108. For example, customer R.H. had her 2012 tax return prepared at the LBS office located at 15228 E. Colonial Dr. in Orlando. On December 27, 2012, before the tax year even ended, R.H. completed the top half of the customer information sheet form in black ink. The LBS preparer completed and signed the bottom half of the form in blue ink, and falsely reported that R.H. had a hair styling business called “Hair by R___” (“Hair by [customer’s first name]” is a common phony business name used by LBS on customers’ Forms Schedule C). The preparer also filled out and had R.H. sign two forms captioned “Sch C Earned Income Due Diligence.” These forms contained different income and expenses for the same phony business; LBS is so brazen (or sloppy) that it cannot even prepare matching fraudulent forms. R.H.’s completed tax return reported the bogus business loss to fraudulently reduce her taxable income to zero.

Intentionally Claiming an Improper Filing Status and Bogus Dependents

109. Gachette and many LBS franchisees, managers, and preparers also routinely prepare tax returns reporting false filing status. Specifically, head-of-household filing status is claimed on customers’ tax returns to increase the amount of the customers’ standard deduction, even though LBS is aware that the customer does not qualify for head-of-household status.

110. Gachette and many LBS franchisees, managers, and preparers frequently file separate returns for married couples who are not living apart, improperly using the “head-of-household” or “single” filing status, both of which are unavailable to married couples living together. Often, this is an attempt to increase the claimed EITC; a couple with at least two children who, together, would otherwise receive a single EITC refund of \$5,000 by properly claiming “married, filing jointly,” may instead each receive a refund of \$3,000 or more, by both falsely claiming head-of-household or single status and each claiming at least one dependent. Additionally, LBS claims dependents who do not actually qualify as dependents on customers’

tax returns, and then claims head-of-household filing status to increase the customers' refunds through both the false filing status and fraudulent EITC claim based on the bogus dependents.

111. For example, customer D.M. had his 2012 federal income tax return prepared at the LBS store located at 15228 E. Colonial Dr., Orlando, Florida. D.M. and his wife went to LBS together to have their tax return prepared. The preparer advised D.M. and his wife to file separately to increase their refund. Rather than select the filing status of "married filing jointly" or "married filing separately," however, the preparer falsely selected "head of household" on D.M.'s return. The preparer claimed the couple's daughter on D.M.'s return. The preparer also offered to sell social security numbers of residents of Puerto Rico to D.M. for \$250, in order to falsely claim additional, bogus dependents on their tax returns, and the resulting higher EITC and refund. D.M. declined the offer. By falsely claiming head of household, the preparer claimed a higher EITC and refund than D.M. was entitled.

112. Customer C.G. had his 2012 federal income tax return prepared at the LBS store located at 213 John Young Pkwy., Kissimmee, Florida. C.G. and his wife went to LBS together to have their tax return prepared. C.G. and his wife had two children in 2012. The preparer told C.G. that he and his wife should both file as head of household, and should each claim one of their children as a dependent. By falsely claiming head of household status and one child as a dependent on each of the couple's separate returns, LBS falsely claimed a higher EITC and a bogus refund for C.G. and his wife. When the IRS explained the improper nature of LBS's tax return preparation to C.G., he told the IRS that he felt deceived by LBS.

113. Similarly, customer E.P.L. had his 2012 federal income tax return prepared at the LBS store located at 7600 Southland Blvd., Orlando, Florida. E.P.L. and his wife went to LBS together to have their tax return prepared. The store manager told E.P.L. and his wife that they

could receive a larger refund if they filed separate returns. E.P.L. trusted the manager because she stated that she was a professional. The manager also told E.P.L. (falsely) that E.P.L. could claim as a dependent his eldest daughter, who lived with E.P.L.'s ex-wife in Puerto Rico, because the daughter occasionally visited E.P.L. By improperly claiming head of household status and a non-qualifying dependent on E.P.L.'s tax return, LBS fraudulently claimed the EITC in the amount of \$4,986 and a bogus refund of \$8,251.

114. E.S. had her 2012 federal income tax return prepared at the LBS store located at 1504 E. Michigan Street, Orlando, Florida. E.S. went with a friend to LBS after receiving a flyer at a Wal-Mart. LBS asked E.S.'s friend whether he had filed his tax return, and he replied that he had not. LBS then advised E.S. to claim her friend as a dependent, even though LBS knew that the friend did not qualify as a dependent of E.S. LBS falsely claimed on the tax return that E.S.'s friend was her "half-brother." By doing so, LBS falsely claimed an increased EITC and bogus refund in the amount of \$6,463 on E.S.'s tax return.

Fabricated Schedule C Business Income and Expenses

115. Gachette and many LBS franchisees, managers, and preparers also prepare tax returns reporting non-existent businesses on bogus Forms Schedule C. On some of these returns, LBS reports substantial income, but little or no expenses. On other returns, LBS reports substantial expenses, but little or no income. The determining factor is whether LBS needs to inflate a customer's income (or create income when the customer has none) to bring the income within the EITC range or "sweet spot," or to lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to either bring the income within the EITC "sweet spot" or simply to create a phony business loss to offset the customer's wages and fraudulently reduce the customer's income tax liability.

116. LBS also coerces customers to provide information that LBS can then use to fabricate claims on the customers' tax return. One LBS script, captioned "Schedule C," instructs preparers as follows: "if the person has a W-2 and made 5,000 or less ask if they have their own business give them examples of their own business (ex. hairstyling, nails, cutting grass)." Thus, based on LBS's suggestions, if a customer responds that they cut a friend's hair, or cut a family member's lawn, or cooked for a church event, LBS then falsely reports that as a business on a Schedule C with bogus income and/or expenses in order to bring the income within the EITC "sweet spot" or to simply reduce the taxable income.

117. For example, customer J.V.S. had his 2012 federal income tax return prepared at the LBS store located at 633 W. Lancaster St., Orlando, Florida. J.V.S. was employed by SkyTanking USA Inc., which issued him a Form W-2 for 2012, reporting \$30,902 in wages. LBS falsely reported on the Schedule C that J.V.S. had his own business, also called SkyTanking USA Inc., and reported that it was a "jet fuel" business. In reality, J.V.S. did not own any business in 2012, and did not inform LBS that he owned any business. LBS falsely reported that J.V.S.'s non-existent business had no sales in 2012, but incurred \$9,912 in expenses, including for bogus car and truck and maintenance expenses. LBS reported this purported loss on J.V.S.'s Form 1040, fraudulently reducing his income, and thereby improperly increasing the EITC claimed on his tax return. As a result, J.V.S.'s 2012 tax return falsely claimed a refund of \$6,154. LBS did not provide J.V.S. a copy of his tax return when LBS filed it and J.V.S. was unaware of the fraudulent Schedule C.

118. Similarly, customer P.W. had her 2012 federal income tax return prepared at the LBS store located at 601 N. Orlando Ave., Maitland, Florida. P.W. was employed by Interstate Brands in 2012 and did some babysitting. P.W. estimates that she earned approximately \$1,000

babysitting in 2012. However, LBS falsely claimed on P.W.'s 2012 tax return that she had a babysitting "business" that had income of \$625 but expenses totaling \$15,472, for a loss of \$14,847. The egregiously fabricated expenses on the LBS-prepared Schedule C included \$175 for advertising, \$8,109 for car and truck expenses (for a business purportedly operated in P.W.'s home), \$1,347 for supplies, \$425 for travel, \$230 for utilities, and \$4,200 for other expenses, classified as cell phone (\$964), uniforms (\$1,592), and medical (\$1,644). P.W. did not provide any of these numbers to LBS, because she had no such expenses. LBS reported this purported business loss on Line 12 of P.W.'s Form 1040, fraudulently reducing her total income to \$16,836. As a result, and because of a resulting \$5,236 EITC claim, LBS requested a bogus refund of \$9,482 on P.W.'s 2012 tax return. LBS did not provide P.W. with a copy of her completed tax return.

119. Married customers E.T. and A.R. had their 2012 federal income tax return prepared at the LBS store located at 975 E. Altamonte Dr., Altamonte Springs, Florida. E.T. provided LBS with a copy of his wife's Form W-2 from her job at a hospital, Forms 1099 for E.T.'s retirement income, and a document showing his unemployment income. LBS asked E.T. if he did anything else, and he mentioned that his hobby was restoring cars. LBS then falsely reported on a Schedule C attached to the tax return that E.T. had a "car building" business, called "E____ Auto Body," purportedly located in E.T.'s house. LBS falsely reported that the non-existent business had no gross sales in 2012, but \$6,629 in "car and truck expenses." Interestingly, LBS also falsely reported on the Schedule A attached to the return that E.T. had \$12,834 in unreimbursed employee business expenses related to a vehicle in 2012, even though E.T. was not employed. The result of these bogus expenses was that LBS fraudulently reduced E.T.'s and A.R.'s taxable income by \$19,463, and claimed a bogus refund of \$3,146.

120. Customer J.M. had his 2012 federal income tax return prepared at the LBS store located at 3246 Washington Rd., Atlanta, Georgia. J.M. was employed by Alliance Laundry and Textile Service in 2012. J.M. provided LBS with a copy of his Form W-2 and his kids' social security cards. J.M. did not earn money through any other business in 2012, and did not tell the LBS preparer that he had any other business. LBS falsely reported on the Schedule C attached to J.M.'s tax return that he had a landscaping business in 2012, and that this phony business did not have any income but incurred \$7,439 in expenses, including \$1,158 for advertising, \$123 for utilities, \$875 for car expenses, \$2,789 for cell phone, \$1,650 for "labor," \$503 for "mechanic," and \$341 for "tires." LBS falsely reported this \$7,439 phony business loss on J.M.'s tax return, thus reducing his taxable income, and resulting in a bogus refund claimed on J.M.'s return in the amount of \$5,923. LBS failed to give J.M. a copy of his tax return. J.M. tried to contact LBS on several occasions to get a copy, but was unable to do so.

121. Customer E.T. had his 2012 federal income tax return prepared at the LBS store located at 2015 Martin Luther King Jr. Dr., Atlanta, Georgia. E.T. was employed by the Atlanta public schools in 2012. E.T. also worked doing small jobs, such as cutting grass, on the side in the summer. E.T. told LBS about his side income, which he estimated to be around \$3,000, and also told LBS that he had some expenses and receipts for those expenses. The LBS preparer asked E.T. whether he had expenses, such as for his cell phone, but did not ask for receipts, which E.T. possessed. The LBS preparer then falsely reported on the Schedule C attached to E.T.'s return that E.T. had \$16,748 in expenses, including car and truck expenses totaling \$10,982, travel expenses of \$2,509, supplies totaling \$1,951, meals and entertainment expenses of \$985, and cell phone expenses of \$321. In reality, E.T.'s expenses did not exceed the income

he received from these small jobs in 2012. LBS thus falsely claimed a business loss of \$12,751, and a resulting bogus refund in the amount of \$5,481 on E.T.'s tax return.

122. LBS is not concerned with the harm caused by reporting bogus income on its customers' tax returns. One result of doing so is that customers may have benefits, such as state welfare benefits or social security income, reduced or eliminated. This is because these types of benefits may be based on an individuals' income level or inability to work, and an individual may be required to prove their income level or inability to work. LBS reports bogus income from non-existent businesses on customers' tax returns in order to fabricate a claim for a refund. When state or federal agencies see an LBS customer's tax return, which includes the bogus income that LBS reported, the state or federal agencies believe that the individual is ineligible for the benefits they are applying for or receiving.

123. For example, customers G.S. and L.S. had their 2012 tax returns prepared at the LBS store located at 6003 Roosevelt Blvd., Jacksonville, Florida. Although G.S. and L.S. were married, LBS improperly filed a separate tax return for each G.S. and L.S. that claimed head of household status, and split their children, with G.S.'s return reporting three dependents and L.S.'s return reporting two dependents. According to a complaint that L.S. filed with the IRS, LBS told her that she could get a tax refund by virtue of having two children. However, L.S. had no income in 2012; G.S. earned \$400 in 2012. LBS falsely reported that L.S. had income of \$12,056 from a non-existent child care business on the Schedule C attached to her tax return, and claimed the EITC and a bogus refund in the amount of \$4,240 on her tax return. LBS falsely reported that G.S. had income of \$14,430 from a non-existent mechanic business, purportedly called "G____ Garage," on the Schedule C attached to his tax return, and claimed the EITC and a bogus refund in the amount of \$5,891 on his tax return.

124. In 2013, G.S. applied for social security disability benefits. Because of the income reported on his tax return, the Social Security Administration determined that G.S. had “shown an ability to work” and was not eligible for disability benefits. Additionally, according to the complaint that L.S. filed with the IRS, she lost benefits “because of the self employment income” on her return that she “did not have.” G.S. and L.S. had to file an amended and correct joint tax return using another tax return preparer, and G.S. is awaiting a further determination regarding his requested benefits from the Social Security Administration.

Bogus Schedule A Deductions

125. Reporting bogus Form Schedule A deductions is another tactic commonly used by Gachette and many LBS franchisees, managers, and preparers to fraudulently reduce customers’ taxable income. As with bogus Schedule C business losses, the bogus Schedule A deductions are typically reported on the tax returns of customers who have over \$24,000 in wage income reported on Forms W-2.

126. One LBS instruction sheet for fabricating expenses for customers with \$40,000 or more in wages instructs the preparers on two methods to reduce customers’ taxable income (a Form 2106 is for unreimbursed employee business expenses reported on a Schedule A):

40000 and more

1. sch c as a bussiness loss

or

2. sch A and 2106

127. LBS often prepares tax returns for customers which include false claims for purported unreimbursed employee business expenses. Section 162 of the Internal Revenue Code governs trade or business expenses. LBS-prepared returns often claim deductions for fabricated,

fraudulently inflated, and/or non-qualifying business expenses. IRS Publication 529 (which is readily available and easy to understand) provides examples of qualifying business expenses, including “Union dues and expenses” and “Work clothes and uniforms if required and not suitable for everyday use.” *See* IRS Publication 529 (2013) (available online at: <http://www.irs.gov/publications/p529/ar02.html>). Publication 529 also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.”

128. One LBS script instructs the preparer to ask specific questions to customers:

(SCHEDULE A QUESTIONS)

- HOW MUCH DID YOU SPEND ON GAS?
- DID YOU ATTEND CHURCH? (10% TITHES) OR -DID YOU GIVE TO ANY CHARITIES?
- DID YOU PURCHASE ANY WORK UNIFORM(S)?
- DID YOU PURCHASE ANY WORK SHOES?
- DID YOU PURCHASE ANY TOOLS?
- ANY MEDICAL OR DENTAL EXPENSES?
- WHAT WAS YOUR CELL PHONE BILL?

If customers respond, for example, that they drove to and from work, LBS then claims a non-qualifying expense for commuting on the customers’ returns. If customers respond that they attend church, LBS claims that the customers made charitable contributions, even if they did not. LBS thus pushes its customers to provide information that LBS can manipulate to make bogus claims on customers’ tax returns.

129. The LBS training “test” specifically instructs preparers that “Schedule A should only be used when the taxpayer has an outstanding income of 24,000 [dollars] or higher.” LBS frequently reports on Forms Schedule A that customers had qualifying expenses such as medical

expenses, state and personal property taxes, charitable contributions, and uniforms, when the customer had no such expenses.

130. For example, customer D.I. had his 2012 federal income tax return prepared at the LBS store located at 7600 Southland Blvd., Orlando, Florida. D.I. was employed by the State of Florida in 2012 and received wages in the amount of \$44,592. LBS falsely reported on the Schedule A attached to D.I.'s tax return that he had itemized deductions totaling \$44,415. This included bogus medical and dental expenses (\$6,147), general sales taxes (\$12,798), unreimbursed employee expenses (\$22,218), and "other" expenses (\$7,188). D.I. did not provide any of these amount to LBS, and as a state employee, D.I. was reimbursed by the state for any business-related expenses, including the mileage expenses that LBS falsely claimed. The bogus itemized deductions fraudulently reduced D.I.'s taxable income to zero, resulting in a bogus refund of \$3,624.

131. LBS commonly improperly deducts vehicle expenses on the Forms Schedule A attached to its customers' returns. In fact, LBS's training "test" lists "Auto Expense" as one of the "4 forms that can get the client the maximum refund." Forms Schedule A and C are also on among those listed forms.

132. LBS frequently reports that a customer used a personal vehicle for a business purpose and that the customer drove tens of thousands of miles for work. In reality, the majority of this purported mileage is for commuting from home to work, which is not a qualifying vehicle expense. LBS also inflates the actual mileage that the customer drives each day to and from work. Therefore, not only is LBS claiming an improper, non-qualifying expense, but it is falsely inflating the mileage number in order to further increase the bogus deduction on customers' tax returns.

133. For example, customer M.M. had his 2012 federal income tax return prepared at the LBS store located at 7600 Southland Blvd., Orlando, Florida. M.M., a contractor who worked at Disney, earned wages of \$22,113 and unemployment income of \$6,325 in 2012. LBS falsely reported on the Schedule A attached to M.M.'s tax return that he had \$27,829 in deductions, thereby fraudulently reducing his taxable income to zero and resulting in a bogus refund of \$2,714. The bogus Schedule A expenses included \$12,658 for sales taxes (nearly half of M.M.'s total income for the year), \$7,208 for mileage expenses (purportedly for 25,974 business miles driven in 2012), and \$4,305 for "other" expenses. In actuality, M.M. did not incur these expenses, and did not tell LBS that he had any such expenses. M.M.'s only vehicle expenses related to his commuting to and from work.

134. Similarly, customer N.C. had her 2012 federal income tax return prepared at the LBS store located at 1555 Semoran Blvd., Winter Park, Florida. N.C. is a hair dresser and was employed by Floyd's and Great Looks in 2012. N.C. typically incurs around \$1,000 in expenses per year, including in 2012, for expenses including her hair coloring, clippers, and other equipment. However, LBS falsely reported on the Schedule A attached to N.C.'s tax return that she had \$14,594 in unreimbursed employee business expenses in 2012. This included an \$11,410 mileage expense related to a purported 20,558 miles driven for business. LBS reported a total of \$16,970 in itemized deductions, including \$1,984 in charitable contributions, to fraudulently reduce N.C.'s taxable income to zero and request a bogus refund in the amount of \$1,693.

135. Customer A.B. had his 2012 federal income tax return prepared at the LBS store located at 3246 Washington Rd., Atlanta, Georgia. A.B. went to LBS after seeing a flyer placed on his car windshield. In 2012, A.B. was employed as a police officer. LBS falsely reported on the Schedule A attached to A.B.'s tax return that he had \$21,442 in unreimbursed employee

business vehicle expenses. The preparer asked A.B. about his commuting mileage, and A.B. told the preparer that he drives about 17 miles to and from work. The preparer then reported this commuting mileage as business mileage. However, the preparer reported that A.B. drove 38,634 miles for work in 2012. Even if commuting expenses were deductible (they are not), and A.B. commuted a total of 38 miles every weekday in 2012, LBS inflated A.B.'s commuting mileage by 28,754 miles. As a result of this bogus Schedule A deduction, LBS fraudulently reduced A.B.'s taxable income and claimed a bogus refund in the amount of \$5,101 on his tax return.

136. LBS also falsely claimed on the tax return of E.P.L., discussed above in paragraph 113, that E.P.L., a security guard, had unreimbursed business vehicle expenses for two vehicles in the amount of \$14,177. E.P.L. had no such expenses and never told LBS that he had such expenses. Based on the Form 2106 attached to the return, these expenses were purportedly for the miles that E.P.L. commuted to and from work, a clearly non-qualifying expense.

Bogus Education Credits

137. Another practice at LBS stores is fabricating education expenses and falsely claiming refundable education credits, including the American Opportunity Education Credit, on customers' federal income tax returns. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability. Gachette and many LBS franchisees, managers, and preparers routinely and repeatedly claim false education credits on the tax returns of customers who did not attend college and had no qualifying education expenses, in order to fraudulently reduce their customers' taxable income and generate a larger bogus refund (and increasing the fees that they charge to customers).

138. Gachette and LBS instructed LBS franchisees, DSMs, and preparers to claim bogus education credits on customers' tax returns. DSMs at the LBS training in Orlando in 2012

were directed to report \$4,000 in education expenses on the Form 8863 in order to claim the maximum refundable and non-refundable portions of the credit, each resulting in a \$1,000 deduction on a customer's tax return.

139. For example, customer A.P. had her 2012 federal income tax return prepared at the LBS store located at 910 N. Sandlake Rd., Altamonte Springs, Florida. LBS claimed an American Opportunity education credit in the amount of \$987 on A.P.'s tax return, even though she did not attend school in 2012. In fact, when questioned by LBS whether she attended school, A.P. specifically stated that she attended beauty school in 2007. Any expenses from 2007 could not have been claimed in 2012.

140. Customers M.A.B. and C.P.M. had their 2012 federal income tax return prepared at the LBS store located at 633 W. Lancaster St., Orlando, Florida. Neither M.A.B. nor C.P.M. attended college in 2012. However, when M.A.B. was at LBS to have the return prepared, LBS initially offered to provide her with a document that would purportedly allow her to claim an education credit. LBS ultimately did not claim any education credit on the return, telling M.A.B. at a later meeting that the IRS was "investigating."

Reporting Inflated Tax Withholdings

141. LBS also prepares tax returns on which it falsely reports that an inflated amount of income tax was withheld from the customers' wages. Because this withholding amount is bogus, it does not match the actual amount of taxes withheld from the customers' pay as reported on the Form W-2 issued by the customers' employer(s). As a result, the LBS-prepared tax return requests a refund of this additional tax purportedly withheld, causing a bogus refund of tax that was never actually withheld from the customers' wages.

142. For example, customers C.B. and L.B. had their tax return prepared at the LBS store located at 213 John Young Pkwy., Kissimmee, Florida. C.B. provided LBS with a copy of his last paystub from the City of Orlando and his Form W-2 from Wal-Mart. LBS falsely reported on the tax return that C.B. received \$16,256 in wages from Wal-Mart, and that \$1,308 in income tax was withheld from his pay. In reality, according to the Form W-2 that Wal-Mart filed with the IRS, C.B. earned \$15,933 in wages, and had only \$389 in income tax withheld. By falsely reporting an additional \$919 in income tax withheld on C.B.'s tax return, LBS fraudulently increased C.B.'s tax refund by this amount.

Improperly Preparing and Filing Returns based on Pay Stubs

143. Gachette and LBS franchisees, managers, and preparers also prepare and file federal income tax returns using customers' end-of-year pay stubs and then file their customers' tax returns without valid Forms W-2. In other instances, an IRS Form 4852, "Substitute for Form W-2," is attached to customers' returns, which falsely claims that the employer did not timely issue a Form W-2. In reality, the returns are prepared before the end of the tax year and/or before an employer even has the ability to issue a Form W-2 for that year.

144. Federal tax returns for wage earners must be prepared using Forms W-2. Using pay stubs to prepare and file tax returns is improper and violates IRS rules. Moreover, end-of-year pay stubs frequently omit income and distributions that are shown on employer-issued Forms W-2. Thus, preparing and filing federal income tax returns based on information from end-of-year pay stubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws. Gachette and many LBS franchisees, managers, and preparers know that using paystubs to prepare and file returns violates IRS rules and regulations because in order to participate in the

IRS's electronic filing program, all electronic filers, including those at LBS, must acknowledge that they will comply with the IRS's requirements, which expressly prohibit filing returns prepared with pay stubs and without genuine Forms W-2. As previously mentioned, DSMs serve as EROs for the store they manage and have EFINs to electronically file returns. IRS Publication 1345 also mandates that "EROs must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R."

145. LBS begins soliciting customers in December of each year by falsely telling customers that their returns can be prepared using their most recent paystub. LBS's stores open on December 26, before the end of the tax year, before customers know how much income they earned and taxes they owe for the year, and before employers are able to issue Forms W-2 to their employees. Forms W-2 are not available to employees before the end of the calendar tax year, and tax returns cannot be filed before January of the processing year.

146. The "presentation script" that employees are trained to recite to prospective customers specifically instructs the employee to tell the potential customer to bring in their paystub to have their tax return prepared. At least one LBS store advertised on its Facebook page that it prepares tax return using end-of-year paystubs.

147. LBS customers fill out a taxpayer personal information sheet, which identifies the customer's name, address, social security number, and dependent information. The customers often complete these forms in December or early January, and because their employers have not yet issued Forms W-2, LBS uses the customers' most recent pay stub to prepare tax returns and create fake Forms W-2. LBS instructs its employees to retain the original pay stub in the customer files and to not file the pay stub with the IRS. LBS stores even maintain a separate

storage bin for files of customers whose returns were prepared using a pay stub rather than a Form W-2.

148. The power point presentation that LBS uses at its training sessions instructs employees to tell potential customers: “Yes, we do last paycheck stubs. Come to our office and we will take care of you!” The presentation also warns employees not to file the actual paystub with the IRS because “your EFIN will be SUSPENDED and you will be DROPPED!!” Thus, LBS encourages the pay stub filing practice, but simply instructs its employees not to get caught.

149. Instead of filing the pay stub, the LBS training “test” specifically instructs preparers that a “Form 4852 is used for all last pay stub clients.” Form 4852 is a Substitute for Form W-2 that is properly used when an employer does not issue a Form W-2 to the employee. It is not permissible to use a Form 4852 if a Form W-2 is or will be issued; the Form 4852 itself lists the possible penalties for improper use.

150. By preparing tax returns before the end of the tax year, LBS unfairly solicits business before its competitors. According to Cindy Velasquez, a former employee of an LBS store in Texas, she and other employees told potential customers that LBS could use the customer’s paystub to prepare a tax return, in order to solicit customers before competitors.

Fraudulent Fuel Tax Credit Deductions

151. LBS prepares and files federal income tax returns for customers on which it improperly claims false or fraudulent fuel tax credits.

152. LBS prepares fraudulent federal income tax returns for customers using IRS Form 4136, “Credit for Federal Tax Paid on Fuels.” The fuel tax credit is available only to taxpayers who operate farm equipment or other off-highway business vehicles. Moreover, the equipment or vehicles using the fuel must not be registered for highway uses. LBS improperly claims the

fuel tax credit for customers' purported business motor fuel purchases, or reports a fraudulently inflated amount of fuel that the customer used in his or her off-highway business equipment.

153. Internal Revenue Code section 6421(a) provides a tax credit for fuel used in an off-highway business use. Off-highway business use is any off-highway use of fuel in a trade or business or in an income-producing activity where the equipment or vehicle is not registered and not required to be registered for use on public highways. IRS Publication 225 provides the following examples of off-highway business fuel use: (1) in stationary machines such as generators, compressors, power saws, and similar equipment; (2) for cleaning purposes; and (3) in forklift trucks, bulldozers, and earthmovers. *See* IRS Publication 225 (2013), Farmer's Tax Guide, Chapter 14 (2013) (available online at: www.irs.gov/pub/irs-pdf/p225.pdf)

154. IRS Publication 510 defines a highway vehicle as any "self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions." A public highway includes any road in the United States that is not a private roadway. This includes federal, state, county, and city roads and streets. These highway vehicles are not eligible for the fuel tax credit. IRS Publication 510 provides the following as examples of highway vehicles which are not eligible for the fuel tax credit: passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. *See* IRS Publication 510 (2013), Excise Taxes, Chapter 2 (available online at: www.irs.gov/pub/irs-pdf/p510.pdf).

155. IRS Publication 510 provides the following example of an appropriate application of the fuel tax credit:

Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her business. The gasoline used in the power lawn mowers and chain saws qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home does not qualify.

156. In short, the fuel tax credit does not apply to passenger cars or other vehicles that are registered or required to be registered to drive on public highways.

157. LBS prepares federal income tax returns for customers and improperly reduce customers' reported tax liabilities by claiming bogus fuel tax credits under I.R.C. § 6421, falsely claiming that those customers used gasoline for qualified off-highway business purposes.

Preparation of Improper Amended Tax Returns

158. LBS also solicited business by telling potential customers that they should allow LBS to amend their prior year's tax returns, which were not prepared by LBS. LBS created telephone scripts and automated phone call messages to solicit such customers.

159. One such telephone script misrepresented not only tax laws, but the IRS's relationship with LBS:

Hi my name is Lynda I'm calling from the tax office here in Orlando we are certified with the IRS how are you this morning/afternoon/evening? Good. The reason for my important call is let you know we are providing a free service to the community. In the years of 2008, 2009, 2010 W-2 workers have not been receiving their maximum refund and IRS has allowed a program in which taxpayers can review their paperwork to ensure that they are not missing any credits. What we do as a company is assist taxpayers to verify that the person who prepared your taxes did not miss this information. Are you a W-2 worker? Perfect! Before I go any further can you please verify for me your address is still _____. Ok these credits that I mentioned can get you anywhere from 1,000-\$2,000 or more. Can you see where this extra cash might help you? I do want to let you know we do have a physical location here in central Florida and I have available appointments for ____, ____, ____.

160. LBS instructed employees that offices "should have 1-2 bins designated to just holding finished amendments."

161. LBS amended customers' previous year's tax returns in order to claim bogus refunds for the customers based on improper and unnecessary amendments (and thereby entice

the customer to allow LBS to prepare tax returns for the customers for the current and/or future tax years) and to generate additional fees for LBS.

Unauthorized Filing of Customers' Tax Returns and Identity Theft

162. LBS also prepares and files tax returns without the individual's knowledge or consent.

163. LBS caters to low-income taxpayers, many of whom are in need of money quickly. Gachette and many LBS franchisees and managers instruct preparers to complete an "estimated" income tax return, purportedly to determine whether the customer qualifies for a refund anticipation loan or to give the customer an accurate estimate of their expected refund. Customers sign the return and other tax forms authorizing LBS to file the return and are falsely told by LBS that the return will not be filed with the IRS until the customer returns with a Form W-2 issued by their employer.

164. However, in order to "lock-in" prospective customers, LBS routinely and illegally files those estimated income tax returns, based on pay stubs, without customer authorization. This practice effectively prevents the customer from later using one of LBS's competitors to prepare and file a return, because a taxpayer can file only one electronic return with the IRS per year. It also gives LBS a competitive advantage over tax return preparers who obey the law and wait to prepare and file returns using Forms W-2. Most importantly, the practice generates an inaccurate return and an unauthorized refund, impedes tax administration, and guarantees that Gachette and LBS franchisees, managers, and preparers will receive their unconscionably high fees, which are paid directly from the customer's refund only after the return has been electronically filed.

165. LBS also prepares and files bogus tax returns using taxpayer information apparently stolen or otherwise misappropriated from the taxpayer.

166. For example, LBS prepared and filed a 2012 federal tax return listing H.S.'s name and social security number, but listing an address not belonging to H.S. The return listed the LBS store at 601 N. Orlando Ave., Maitland, Florida, as the paid preparer's firm and address. H.S. has never knowingly had LBS prepare his tax return for any year. LBS reported false Form W-2 information (employer and wages) on the tax return, and requested a refund of \$8,382. It is not known what happened to that refund. Shortly after LBS filed this return, H.S. filed a correct tax return for 2012, with Form W-2 information matching that provided to the IRS by his actual employer. H.S. was unaware of LBS' filing of this tax return until contacted by the IRS. H.S. does not know how LBS got his name and social security number.

167. Similarly, LBS prepared and filed a 2012 federal tax return listing E.A.'s name and social security number, but listing an address not belonging to E.A. The return listed the LBS store at 601 N. Orlando Ave., Maitland, Florida, as the paid preparer's firm and address. E.A. has never knowingly had LBS prepare his tax return for any year. LBS reported false Form W-2 information (employer and wages) on the tax return, and requested a refund of \$7,151. It is not known what happened to that refund. E.A. was unaware that any tax return had been filed for him in 2012, as he filed for an extension of time to file his return and had not discussed his 2012 taxes with his tax attorney in Massachusetts. E.A. does not know how LBS got his name and social security number.

Deceptive, Unconscionable, and Undisclosed Fees

168. LBS charges unconscionably high fees to prepare tax returns, mostly through added, deceptive fees. These fees are typically charged without customers' knowledge.

169. Gachette sets the fees to be charged at all LBS stores. LBS tax return preparers are allowed to charge more on an individual customer basis, but are not allowed to charge less without the approval of the DSM at their store. Prior to each tax return filing season, Gachette emails the LBS price list to franchisees and DSMs and directs them to enter the prices into Drake software to ensure that the total charges are tabulated by the software.

170. LBS intentionally deceives its customers regarding the fees charged for the preparation of tax returns.

171. The LBS training “test” specifically instructs employees to tell potential customers who call LBS asking what the charge is for preparing a tax return to respond with: “\$75. Would you like to set an appointment?” The “Telephone Script” instructing employees how to speak to a potential customer on the phone directs employees to respond to the question “How much do you charge?” with: “We charge \$75. You do not have to pay us up front; it will be deducted automatically from your refund.”

172. However, the actual cost may be several hundred dollars or more depending on the forms and schedules attached to the tax return. LBS charges additional fees for each form and schedule (such as a Schedule C or a Form 8863 for an education credit) attached to the Form 1040 tax return. LBS charges separate fees for forms and schedules such as the electronic filing authorization (Form 8879) which is required for e-filing, the EITC qualifying child form (Schedule EIC), and the related EITC due diligence checklist (Form 8867), which must be completed in connection with a claim for the EITC. These fees result in a total tax return preparation fee much higher than the \$75 advertised.

173. LBS also has so-called “999 charge weeks.” During these periods, Gachette and LBS franchisees encourage LBS stores to charge \$999 – or “as much as possible,” according to

franchisee Douglas Mesadieu – for the preparation of tax returns that, at other times, would not result in such high fees. The sole purpose of “999 charge weeks” is to maximize the amount of revenue generated by LBS stores, and the high fees charged during these periods are not based on the difficulty or amount of time in preparing customers’ tax returns.

174. Gachette also receives his “service bureau” and “LBS transmittal” fees (which totaled \$74 in 2013) for every tax return prepared. Drake software and EPS Financial (the refund processor) received fees of \$7 and \$15 to \$20, respectively, per tax return filed in 2013. Thus, for a customer to have LBS prepare and e-file a basic federal income tax return (which is the appropriate return for the majority of customers), the actual bare minimum is far more than the \$75 advertised amount.

175. According to one DSM, if a tax return preparer was not charging clients a “big enough” amount, Gachette would send the preparer a message through the “GroupMe” cell phone application instructing the preparer to “increase the prices being charged for tax preparation services.”

176. Another DSM, whose office was generating a lot of sales and related fees in 2013, received a congratulatory phone call from Gachette during the tax return preparation season, during which Gachette told him, “I don’t know what the f--- you are doing, but keep doing it!”

177. The high fees (and fee structure, which encourages the addition of unnecessary and often improper forms and schedules to the Form 1040) are a strong incentive for LBS to prepare and file fraudulent returns claiming excessive refunds based on bogus claims and associated forms and schedules.

178. Because LBS targets low-income individuals, the high fees frequently pose a significant financial hardship for its customers. Additionally, fees are unconscionable for the

basic tax returns being prepared for these customers, who are often eligible for free tax return preparation and electronic filing elsewhere.

179. LBS also routinely and intentionally fails to disclose to customers all fees charged. According to a former LBS tax return preparer in Texas, LBS trains its employees how to present forms to customers to sign, including a form acknowledging the fees charged, without allowing the customer to closely review or understand the forms they are signing. Similarly, a DSM in Florida stated that for customers for tax year 2012 who came in before January 26, 2013 (when the IRS began accepting returns), the sheet showing the fees that customers paid was intentionally left blank, and customers were told that this information would be filled in once the Drake software system “updated.”

180. Alternatively, LBS tells customers one amount for fees and then later increases the fees without the customers’ knowledge or consent. Customers are often surprised to learn that the refund requested on their return is hundreds if not thousands of dollars more than the refund amount that they received after the fees were deducted.

181. Customers often complain that they did not know in advance that they would be charged exorbitant fees. LBS provides its customers with the amount of the refund that they will be receiving, which is much less than the refund amount that was actually claimed on their tax return (which is not disclosed to customers at the time their tax returns are prepared). This is a recurring theme of complaints filed with the IRS and the Better Business Bureau, as well as local news reports regarding LBS locations across the country.

182. To the extent that customers are advised that additional fees may be charged per each additional form, they are not advised upon completion of the preparation of the tax return the total amount of those fees. If customers question the fee, LBS employees are instructed to

tell the customer how much more money the preparer got the customer by adding additional forms to the tax return to increase the refund, and that, as the preparer stated in the initial “presentation script” each of those forms to get the customer more money back costs an additional fee.

183. LBS’s fees are not paid by customers at the time of the preparation of their tax returns, but instead are subtracted from the customers’ tax refund. By doing so, LBS is able to conceal from unsuspecting customers the actual amount that the customers pay to have their tax return prepared. Customers typically do not discover that LBS charged much more than the customers anticipated for the preparation of their tax return until the customers receive a refund that is much less than quoted by the tax return preparer because LBS had subtracted its high fees.

184. As with all of the fees that LBS charges, Gachette’s transmittal and service bureau fees are deducted directly from customers’ refund checks. Tax refunds issued to customers are directed from the IRS to a third-party processor’s bank account. The processor then deducts and transmits the fees owed to Gachette and the LBS franchisee for preparing the tax returns. The remaining refund amount is then directed to the customer, through direct deposit or check. The check issued to the customer makes no reference to the amount of fees deducted, which makes it easy for LBS to conceal, inflate and/or lie about its fees.

185. For example, LBS initially told customer J.V.S., described above in paragraph 117, that the fee to prepare his return would be around \$220. LBS did not give J.V.S. a copy of his tax return until 10 days after it was filed, at which point J.V.S. first saw a statement of fees, showing that LBS actually charged him around \$800 to prepare his return. J.V.S. called LBS to complain to the preparer, who hung up the phone on J.V.S.

186. Similarly, LBS told customer S.P., described above in paragraph 96, that the tax return preparation fee would be around \$350. However, after the return was completed, LBS told her the fee was around \$700. LBS only provided S.P. with a copy of the first page of her tax return, and only after she asked for it; LBS falsely told S.P. that it was not required to give her a copy of her tax return.

187. LBS's practice of charging unconscionable and undisclosed fees violates consumer protection laws. The undisclosed and unconscionable fees also interfere with the administration and enforcement of the internal revenue laws. Potential customers go to LBS believing that they will be charged a reasonable fee for the honest and accurate preparation of their tax return. Instead, LBS charges unconscionable fees (based on the inclusion of additional forms and schedules that frequently make fabricated claims designed to fraudulently increase the customers' refund), that are subtracted from customers' falsely inflated refunds, without full disclosure to the customer. Such predatory behavior erodes consumer confidence in tax return preparers and dissuades taxpayers from seeking professional assistance with the preparation of their federal tax returns.

188. In 2013, the State of Texas sued LBS Tax Services, Loan Buy Sell, Inc., WG Group, LLC, and JGT Group, LLC, among others, in state court alleging that LBS offices in Houston "engaged in unlawful and deceptive acts and practices in violation of the Texas Deceptive Trade Practices Act." (*See State of Texas v. LBS Tax Service, et al.*, No. 2013-17062 (Harris County Texas, 11th Judicial District)). Texas alleged that LBS "uses aggressive advertising techniques" and that its "advertisements guarantee the 'maximum tax refund allowed' for a fee of only \$75," but that consumers "later learn" that LBS "withheld hundreds of dollars more from consumers; tax refund than the amount originally quoted." According to the

complaint, LBS “used this scheme to fraudulently obtain thousands of dollars from consumers all over Harris County.”

189. On or about December 19, 2013, Texas and LBS Tax Services, Loan Buy Sell, Inc., WG Group, LLC, and JGT Group, LLC, stipulated that those entities “and their officers, agents, servants, employees, and any other person in active concert or participation with them, whether acting directly or through any trust, corporation, subsidiary, division, or other device, shall be permanently enjoined from engaging in the following acts or practices: Selling marketing, offering, promoting, distributing, or advertising tax preparation services ... to Texas consumers, either directly or indirectly, without prior written approval of the Office of the Attorney General of Texas.” Those entities also agreed to a judgment against them and in favor of Texas in the amount of \$1,300,000. The court entered the judgment on January 10, 2014.

190. Additionally, one of LBS’s competitors filed suit against LBS related to its practices. H & R Block filed suit against LBS on or about February 22, 2012 in Seminole County, Florida circuit court, seeking injunctive relief barring LBS from 1) representing that LBS could provide “same day tax refunds”; 2) representing that money offered or paid to customers by LBS were tax refunds when they were, in fact, loans or otherwise not tax refunds; 3) representing to customers that LBS could claim an EITC for a customer in a specific amount or in an amount in excess of the law, and misrepresenting the amount or availability of the EITC that they can claim for a customer; 4) misrepresenting to customers that LBS can file a tax return using a customer’s pay stub rather than a Form W-2; and 5) electronically filing customers’ tax returns based on a pay stub rather than a Form W-2. *See HRB Tax Group, Inc. v. LoanBuySell, Inc., et al.*, Case no. 12-CA-921-11-00 (Fla. Seminole County Ct.). The court entered judgment

against LBS on April 25, 2012. On January 30, 2013, the court found that LBS was in contempt of the injunction order.

**Failure to Provide Customers with Copies of their Completed Tax Returns
in Violation of 26 U.S.C. § 6701(a)**

191. LBS commonly fails to provide its customers with copies of their completed tax returns. The completed tax return, filed with the IRS, shows the refund that LBS is claiming for the customer. By giving a copy of the tax return to the customer, the customer is able to determine the amount of fees charged by LBS by subtracting the amount of the refund that the customer actually receives from the amount of the refund claimed on the tax return. LBS's failure to provide a copy of a customer's completed tax return is part of LBS's strategy to conceal its actual fees from its customers.

192. Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer "shall furnish a completed copy of [a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature."

193. LBS's training "test" states that employees should provide a customer with a copy of the customer's tax return, but "Only if we will be E-filing the same day or if we have already E-filed." In reality, LBS customers do not receive copies of their tax returns, particularly those whose returns are prepared based on a pay stub days or weeks before the IRS even begins to accept filed tax returns. The answer to the LBS "test" question about whether to "give customers their copies of their 1040 tax papers" on January 5, 2013 is simply "NO."

194. Not only does LBS not provide a copy of the completed tax return to customers at the time it is prepared, but it fails to provide a copy after electronically filing the return, and also refuses to provide a copy later on the customer's demand.

Examples of the Widespread and Common Fraud at LBS Tax Services Locations

195. Interviews of a random sampling of customers of stores that Gachette owns, and reviews of those customers' tax returns, illustrate the pervasive fraudulent activity described in this complaint.

196. Additionally, depositions taken in the Texas litigation and interviews with additional LBS customers of stores owned and franchised by Gachette outside of the Orlando, Florida area, and reviews of those customers' tax returns, revealed that LBS locations managed by different franchisees, separated by hundreds of miles, engaged in fraudulent tax return preparation utilizing the same false claims, credits, and deductions (after soliciting customers using the same deceptive or misleading advertising). The pervasive fraud at LBS indicates that it is a company with systemic fraudulent practices designed to enrich Gachette and LBS by collecting bogus fees for dishonest work, all at the expense of the United States and LBS's unsuspecting customers.

197. Although Gachette claims to have little or no control over the practices of LBS franchisees and their DSMs, the same fraud that occurs at the stores that Gachette owns and operates also occurs at many franchisees' stores.

198. The IRS selected a sample of Gachette-owned stores in the Orlando, Florida area and interviewed 94 customers whose returns were prepared at those stores. In addition to the customers described above, the following examples show the rampant fraud at Gachette-owned stores.

199. J.J-F. had her 2012 federal income tax return prepared at the LBS store located at 1504 E. Michigan Street, Orlando, Florida. In 2012, J.J-F., who was employed to process medical records by Orlando Health, had \$20,576 in wages, and received \$7,173 from a pension and \$1,200 in unemployment. LBS falsely reported on the Schedule C attached to the tax return that J.J-F. operated a business from her home; the name and the nature of the business was not listed on the Schedule C. LBS fraudulently claimed that the non-existent business incurred expenses in the following amounts: \$10,464 for car and truck, \$879 in repairs and maintenance, \$475 in travel, \$163 in deductible meals and entertainment, and \$645 for uniforms. Because LBS reported no gross receipts for the business, this created a loss of \$12,626 on J.J-F.'s tax return. In addition, LBS reported bogus deductions on J.J-F.'s Schedule A, including for medical expenses covered by her insurance (\$5,276) and charitable contributions (\$4,322). As a result, LBS fraudulently reduced J.J-F.'s taxable income and requested a bogus refund in the amount of \$1,003. LBS charged J.J-F. around \$500 to prepare her return.

200. B.J. had her 2012 federal income tax return prepared at the LBS store located at 1504 E. Michigan Street, Orlando, Florida. LBS reported that B.J. had \$487 in HSH income, when in fact all of her income came from four different employers in 2012. LBS also falsely claimed that B.J. owned a home-based business (not described or named on the tax return), and reported on the Schedule C attached to her tax return that she had no business income but expenses of \$1,245 for supplies. This fraudulently increased the EITC and refund that LBS claimed on B.J.'s tax return. According to B.J., LBS told her that the tax return preparation fee would be \$200-\$300, but she later learned, based on the reduced amount of her tax refund, that LBS actually charged a fee of \$1,067. LBS only provided B.J. with a copy of the first two pages of her return.

201. J.M. had her 2012 federal income tax return prepared at the LBS store located at 1504 E. Michigan Street, Orlando, Florida. J.M. was not employed in 2012, but occasionally made and sold pillows, possibly earning as much as \$75 some months. She also received social security benefits. However, LBS falsely reported that J.M. had HSH income in the amount of \$5,938, and business income of \$1,020 for a non-existent business called "j_____ assembly," in order to fabricate sufficient earned income to claim an EITC in the amount of \$2,338. In reality, J.M. did not receive earned income in 2012 to qualify for the EITC. As a result of the fabricated income, EITC, and child tax credit, LBS claimed a bogus refund for J.M. in the amount of \$2,796. LBS did not provide J.M. with a copy of her completed tax return.

202. L.T. had her 2012 federal income tax return prepared at the LBS store located at 1504 E. Michigan Street, Orlando, Florida. L.T. did not work in 2012, but received a final paycheck from her 2011 employment at Wal-Mart in January 2012. The wages that LBS reported on L.T.'s tax return (\$5,710) did not match the wages that Wal-Mart reported to the IRS (\$1,524). LBS also falsely reported that L.T. had a baby sitting business in 2012, business income of \$3,450, and no business expenses. In reality, L.T. had no such babysitting business, and did not tell LBS that she babysat or had a business. Additionally, the person listed on L.T.'s tax return as the paid preparer is not the person who prepared the tax return in L.T.'s presence. LBS charged L.T. around \$980 to prepare her return.

203. W.J. had her 2012 federal income tax return prepared at the LBS store located at 1504 E. Michigan Street, Orlando, Florida. LBS claimed an American Opportunity education credit in the amount of \$808 on W.J.'s return, even though the expenses that W.J. had related to her daughter's college education – airfare and personal hygiene items – were not qualifying educational expenses for the credit. LBS also falsely reported that W.J. had a baby sitting

business, and reported income of \$5,968 from this business. By claiming this phony income on a Schedule C, LBS increased W.J.'s total income to \$13,624, and falsely increased the EITC and refund claimed on her tax return. LBS did not provide W.J. with a copy of her completed tax return. LBS initially told W.J. that the tax return preparation fee would be around \$79, but then charged W.J. around \$800 to prepare the return. LBS did not provide W.J. with a copy of her completed tax return.

204. H.H. had his 2012 federal income tax return prepared at the LBS store located at 1555 Semoran Blvd., Winter Park, Florida. H.H.'s tax return claimed two of his sister's children as dependents, but LBS never asked H.H. any questions to determine whether they actually qualified as his dependents. In reality, they did not, but LBS reported them as dependents and also reported an improper head of household filing status. The LBS preparer asked H.H. if he did any work on the side, and H.H. responded that he cut his friends' hair. The LBS preparer told H.H. that if he claimed this as a business, he could receive a larger refund, but H.H. explained to the preparer that it was not a business. H.H. did not own a business in 2012, has never owned a business, and did not tell LBS that he owned a business or was otherwise self-employed in 2012. However, LBS falsely claimed on H.H.'s tax return that he earned \$5,380 for a purported "barber" business, thereby fraudulently increasing H.H.'s earned income to \$12,645, and improperly claiming an increased EITC to which H.H. was not entitled. As a result of the phony dependents, fabricated income, and EITC, H.H.'s tax return claimed a bogus refund of \$6,326. The LBS preparer did not review a copy of the return with H.H., and never provided a copy of the return to H.H. LBS did not tell H.H. how much he was being charged for the preparation of his tax return, and he did not receive any of the refund claimed on his return.

205. H.C. had her 2012 federal income tax return prepared at the LBS store located at 5675 La Costa Dr., Orlando, Florida. H.C. received social security benefits in 2012, and was not employed. However, H.C. did sell Avon products for a few months in 2012. H.C. gave all of this information to the LBS preparer. The preparer told H.C. that she would report on the tax return as if H.C. had been selling Avon for a long time. LBS thus reported on the Schedule C attached to H.C.'s tax return that H.C. earned \$11,569, and had no business expenses, in 2012. In reality, H.C. earned no more than \$600 selling Avon products in 2012. LBS also falsely claimed that H.C. had dependents in 2012 when, in fact, because of her limited income, she could not have supported her daughter and grandchild, with whom she lived in 2012. In reality, Carey and her two daughters (with whom she lived) equally shared the financial burden of supporting the family. LBS thus also falsely claimed head of household filing status. As a result, LBS also falsely claimed the EITC in the amount of \$4,310, and a bogus refund of \$3,889. After filing the return, LBS called H.C. to tell her that her refund would be \$3,150, because the IRS would not give her the full amount requested; in reality, this was LBS deceptively taking \$700 in fees from the refund for what should have been, if anything, a basic tax return.

206. H.R. had his 2012 federal income tax return prepared at the LBS store located at 6001 Silver Star Rd., Orlando, Florida. H.R. was unemployed in 2012, but received child support and government assistance. However, LBS falsely reported that H.R. received HSH income in the amount of \$4,968, and that he had a business called "H_____'s Motorcycles" that earned \$6,986 with expenses of \$75. In reality, H.R. had no such business, and did not tell LBS that he had any business. Nor did H.R. tell LBS that he earned any income in 2012. As a result of the phony HSH and business income totaling \$11,879, LBS falsely claimed the EITC and a bogus refund of \$4,320 on H.R.'s tax return.

207. L.G. had her 2012 federal income tax return prepared at the LBS store located at 910 N. Sandlake Rd., Altamonte Springs, Florida. L.G. went to LBS after seeing a flyer at her apartment complex. L.G. was married in 2012 but LBS falsely reported her filing status as single. L.G. earned \$20,245 in wages in 2012. In order to fraudulently reduce L.G.'s taxable income, LBS reported fabricated business expenses for a non-existent business on the Schedule C attached to the tax return. L.G. did not have a business in 2012, but LBS reported that she ran a business from her apartment that had zero sales but \$14,645 in expenses for advertising (\$402), car and truck (\$11,595), business property (\$900), supplies (\$376), cell phone (\$686), uniforms (\$388), and shoes (\$298). The phony business expenses fraudulently reduced L.G.'s taxable income to zero, resulting in a bogus refund of \$1,275.

208. M.C. had his 2012 federal income tax return prepared at the LBS store located at 213 John Young Pkwy., Kissimmee, Florida. M.C. provided LBS with a copy of his Form W-2 from AirTran Airways and a statement from his church showing that he contributed approximately 10% of his income. LBS attached a Schedule A to M.C.'s tax return claiming \$24,934 in itemized deductions, including unreimbursed business expenses (\$10,795), "repairs," cell phone, and "other" expenses (totaling \$5,497), general sales taxes (\$8,500), and medical expenses (\$3,349). M.C. did not provide LBS with any of these amounts and does not know how LBS concocted them. As a result of these claims, LBS claimed an increased earned income tax credit on M.C.'s return, and a resulting bogus refund in the amount of \$6,486. After having his 2012 tax return prepared, M.C. received a call from LBS telling him that he should have LBS prepare and file amended 2009, 2010, and 2011 tax returns on his behalf in order to get more money back.

209. E.M.G. and J.P.C. had their 2012 federal income tax return prepared at the LBS store located at 213 John Young Pkwy., Kissimmee, Florida. E.M.G. was a truck driver in 2012, and received wages in the amount of \$600 that were not reported on the tax return. As a truck driver, E.M.G. had some expenses that were not reimbursed by his employer. However, LBS reported on the Schedule C attached to the return that E.M.G. had unreimbursed business expenses related to travel expenses, meals and entertainment expenses, and vehicle expenses for mileage. E.M.G.'s employer gave him a credit card to use for fuel purchases, so E.M.G. had no out-of-pocket costs for fuel. Additionally, any deductible items for his truck driving business should have been reported (and, to the extent he claimed them, were reported) on the Schedule C attached to the tax return. E.M.G. did not tell LBS that he had unreimbursed fuel expenses or other unreimbursed business expenses to claim on the Schedule A. As a result of the \$17,629 vehicle-related expenses, LBS claimed the EITC in the amount of \$5,891 and a bogus refund of \$5,814 on E.M.G.'s and J.P.C.'s tax return. LBS charged E.M.G. and J.P.C. around \$1,000 to prepare their tax return.

210. M.S. had her 2012 federal income tax return prepared at the LBS store located at 601 N. Orlando Ave., Maitland, Florida. LBS falsely reported wages of \$5,500 on M.S.'s tax return. These purported wages were actually the proceeds of a Pell grant that she received for education expenses. The LBS preparer told M.S. that she could report this as income. LBS also claimed a dependent on M.S.'s tax return, when, in fact, M.S. could not claim any dependents because the majority of her income was government assistance. By fraudulently reporting the Pell grant as income and falsely claiming a dependent, LBS improperly claimed the EITC in the amount of \$3,169, and \$978 child tax credit, and a resulting bogus refund of \$3,615 on M.S.'s tax return.

211. E.C. had his 2012 federal income tax return prepared at the LBS store located at 633 W. Lancaster St., Orlando, Florida. E.C. was employed part of 2012, and also received unemployment income. E.C. had a son who lived with his mother in 2012, and E.C. so informed LBS. However, LBS falsely claimed the son as a dependent on E.C.'s tax return, and also claimed head of household filing status, even though the LBS preparer knew that E.C. was single and lived alone. By claiming the non-qualifying dependent and head of household status, LBS falsely claimed the EITC in the amount of \$2,828 and a bogus refund of \$4,818 on E.C.'s tax return. LBS also failed to disclose to E.C. the total fee for preparing the tax return, and only provided E.C. with a copy of his return after he called repeatedly to request a copy for about two weeks.

212. Interviews of randomly-selected customers of Gachette-owned stores in other geographic areas revealed the pervasive fraud occurring at his LBS stores.

213. K.S. had her 2012 federal income tax return prepared at the LBS store located at 3246 Washington Rd., Atlanta, Georgia. After preparing K.S.'s tax return, the LBS preparer showed K.S. the amount of her refund. The preparer then told K.S. that she could get more back if K.S. had a business. K.S. questioned the preparer, who assured her that it was legal. The preparer also told K.S. that if the IRS questioned her about the business, K.S. just needed to buy a receipt book and prepare receipts for the IRS. K.S. did not have any business, and the preparer knew that. The LBS preparer then fabricated a Schedule C on which she claimed that K.S. had a cleaning business that had \$13,928 in income and \$267 in expenses, for a profit of \$13,661. By reporting this income on K.S.'s tax return, LBS fraudulently claimed an EITC in the amount of \$5,236 and claimed a bogus refund in the amount of \$5,466 on K.S.'s tax return.

214. C.J. had her 2012 federal income tax return prepared at the LBS store located at 7996 Rockbridge Rd., Lithonia, Georgia. C.J., a police officer, went to LBS because it was recommended by several officers with whom she works. C.J. paid \$10,103 in home mortgage interest in 2012 and provided the preparer with a copy of her Form 1098. LBS, however, falsely reported on the Schedule A that C.J. paid \$20,206 in home mortgage interest, exactly double what she actually paid. C.J. also sometimes drove her personal vehicle for work, such as when she drove to the police academy to provide training, but was reimbursed by her employer using a standard mileage rate. LBS falsely reported that C.J. drove her personal vehicle 40,411 miles for work in 2012 (of which all were classified as commuting miles, a non-deductible expense), and claimed a phony \$22,428 deduction on the Schedule A. C.J. believes that she may have driven about half that many miles for work in 2012. As a result of these bogus deductions, LBS fraudulently reduced C.J.'s taxable income and claimed a bogus refund in the amount of \$4,799 on her tax return.

215. A.M.P. had her 2012 federal income tax return prepared at the LBS store located at 7806 N. Armenia Ave., Tampa, Florida. A.M.P. provided the LBS preparer with copies of her Forms W-2 for several jobs that she had in 2012, and from which she earned \$4,339. A.M.P. also cleaned houses "once in a blue moon" for family for \$40. LBS falsely claimed on the Schedule C attached to A.M.P.'s tax return that she had a house cleaning business through which she made \$8,756 in 2012. A.M.P. does not know where the LBS preparer got that amount from and does not remember the preparer showing that to her at the time the return was prepared. According to A.M.P., the preparer had her sign a copy of her return and then "quickly took it back." By claiming the fabricated income, LBS increased A.M.P.'s total earned income and thereby fraudulently claimed an EITC in the amount of \$4,990, and a bogus refund of \$5,390.

LBS also initially told A.M.P. that the fee would be between \$150 and \$200, but took over \$900 from her refund.

216. R.R. and R.S. had their 2012 federal income tax return prepared at the LBS store located at 3434 Columbus Dr., Tampa, Florida. R.R. and R.S. went to LBS after seeing yard signs in their neighborhood advertising large refund amounts per child. R.R. and R.S. combined earned \$75,091 in 2012. To fraudulently reduce R.R.'s and R.S.'s taxable income, LBS falsely reported \$42,261 in itemized deductions on the Schedule A attached to their tax return. The phony deductions included unreimbursed employee business expenses totaling \$31,070, including \$17,926 for vehicle expenses, \$125 for parking fees and tolls, and \$8,130 for meals and entertainment. R.S. was employed as a garbage man in 2012 and did not use his personal vehicle for work. R.R. occasionally drove her car for work, but was reimbursed by her employer, and R.R. told the preparer that her work travel expenses were covered by her employer. Other bogus unreimbursed employee business expenses that LBS included on the tax return included two cell phone expenses in the amounts of \$2,816 and \$2,546, two shoe expenses in the amount of \$530 and \$1,254, and a uniform expense in the amount of \$1,350. LBS also falsely claimed that R.R. and R.S. made charitable contributions of \$7,169, when, in fact, R.R. and R.S. told the preparer that they did not make any contributions in 2012. By falsely claiming these deductions, LBS claimed a bogus refund in the amount of \$8,282 on R.R.'s and R.S.'s tax return.

217. J.D. and M.D. had their 2012 federal income tax return prepared at the LBS store located at 7806 N. Armenia Ave., Tampa, Florida. The Ds.' combined wages in 2012 were \$94,401. To fraudulently reduce the Ds.' taxable income, LBS falsely reported \$41,556 in itemized deductions on the Schedule A attached to their tax return. The LBS preparer asked the

Ds.' about their expenses in 2012, and they responded that they had a fence installed in their yard. The preparer then falsely told J.D. and M.D. that they could deduct the cost of the fence, and included that non-qualifying expense as a deduction on the Schedule A, listed under other expenses as "Home Fense." LBS falsely claimed unreimbursed employee business expenses totaling \$34,957, including \$30,430 for vehicle expenses (for a purported 54,828 business miles driven in 2012), \$426 for parking fees and tolls, and \$2,352 for meals and entertainment. LBS also falsely claimed unreimbursed business expenses a cell phone in the amount of \$1,652, uniforms in the amount of \$598, and dry cleaning in the amount of \$675. By reporting these phony deductions, LBS claimed a bogus refund in the amount of \$7,280 on the Ds.' tax return.

218. W.L. and T.L. had their 2012 federal income tax return prepared at the LBS store located at 7806 N. Armenia Ave., Tampa, Florida. T.L. was employed as a teacher in 2012, earning wages totaling \$44,673, while W.L. worked as a barber. The LBS preparer told W.L. that she could get W.L. more money back than the competition by using a different form. W.L. gave the preparer T.L.'s Form W-2, along with receipts showing his income and expenses as a barber. W.L. earned around \$27,000 in 2012. However, despite having documents showing W.L.'s actual income and expenses, the LBS preparer falsely claimed on the Schedule C attached to the Ls.' tax return that W.L. had gross receipts of only \$4,264, while incurring expenses in the amount of \$9,121, for a loss of \$4,857. To further fraudulently reduce the Ls.' taxable income, LBS also falsely reported \$28,751 in itemized deductions on the Schedule A attached to their tax return. The phony deductions included unreimbursed employee business expenses totaling \$27,516, including \$23,690 for vehicle expenses, \$123 for parking fees and tolls, and \$1,469 for meals and entertainment. LBS also falsely claimed unreimbursed business expenses a cell phone in the amount of \$1,531, uniforms in the amount of \$785, and dry cleaning

in the amount of \$652. By not reporting W.L.'s actual income from his barber business, and instead fabricating a business loss, and the phony Schedule A deductions, LBS fraudulently claimed an EITC in the amount of \$1,545 and a bogus refund in the amount of \$8,057 on the Ls.' tax return. LBS did not show W.L. a copy of the Ls.' 2012 tax return before it was filed, and has never provided W.L. with a copy of the completed tax return.

219. Y.M. had her 2012 federal income tax return prepared at the LBS store located at 8400 Bay Meadows Way, Jacksonville, Florida. Y.M. gave the LBS preparer copies of her Form W-2, Form 1099 from her father's pension, ID, and social security cards for her children. Y.M. was employed by JP Morgan Chase in 2012 and had wages of \$45,341, and did not receive any income in 2012 other than her job and the pension. LBS falsely reported on the Schedule C that Y.M. had a business (not identified by name or type of business) that had no sales but \$15,855 in car and truck expenses. Y.M. does not recall the LBS preparer asking her any questions about a business or about mileage driven in 2012. By reporting this phony business loss of \$15,855, LBS fraudulently claimed a refund in the amount of \$5,394 on Y.M.'s tax return.

220. J.H. had her 2012 federal income tax return prepared at the LBS store located at 8400 Bay Meadows Way, Jacksonville, Florida. J.H. was employed as a surgical and patient care technician and had wages of \$43,342 in 2012. J.H. provided the LBS preparer with copies of her Form W-2, ID, and social security cards for her children. LBS falsely claimed on the Schedule C that J.H. had a business (not identified by name or type of business) that had no sales but \$18,286 in car and truck expenses. J.H. does not recall the LBS preparer asking her any questions about a business or about mileage driven in 2012. By reporting this phony business loss of \$18,286, LBS fraudulently claimed a refund in the amount of \$6,803 on J.H.'s tax return.

221. K.C. had his 2012 federal income tax return prepared at the LBS store located at 8400 Bay Meadows Way, Jacksonville, Florida. K.C. was employed as a truck driver and had wages of \$49,308 in 2012. K.C. provided the LBS preparer with copies of his last paystub, ID, and social security cards for her children. A week after his first visit, he returned to LBS with a copy of his Form W-2. However, LBS apparently prepared his tax return based on his last paystub, because the wages reported on his tax return (\$52,188) are greater than reported on his Form W-2. LBS falsely claimed on the Schedule C that K.C. had a business (not identified by name or type of business) that had no sales but \$21,631 in car and truck expenses. K.C. did not tell the preparer that he had a business, but the preparer did ask him how many miles he drove going to work and how much he spent on gasoline in 2012. The LBS preparer used this information to fabricate expenses on the Schedule C. By reporting this phony business loss of \$21,631, LBS fraudulently claimed a refund in the amount of \$5,419 on K.C.'s tax return.

222. F.C. and R.C. had their 2012 federal income tax return prepared at the LBS store located at 5909 Merrill Rd., Jacksonville, Florida. F.C. worked in a factory and R.C. received disability income in 2012. The Cs. provided the LBS preparer with copies of F.C.'s Form W-2, R.C.'s Form 1099 showing her disability income, the IDs, and social security cards for their grandchildren. LBS reported F.C.'s wages of \$27,025, but did not report R.C.'s disability income on the tax return. LBS falsely claimed on the Schedule C that F.C. had a business (not identified by name or type of business) that had no sales but \$4,384 in car and truck expenses. The preparer did ask R.C. how many miles he drove going to and from work, and used this information to fabricate expenses on the Schedule C. By reporting this phony business loss of \$4,384 and not reporting R.C.'s disability income, LBS fraudulently claimed an EITC in the amount of \$5,822, and a bogus refund of \$11,363 on the Cs.' tax return.

223. L.C. had her 2012 federal income tax return prepared at the LBS store located at 5909 Merrill Rd., Jacksonville, Florida. L.C. provided the LBS preparer with copies of her Form W-2 and social security cards and birth certificates for her children. L.C. had day care and tuition expenses in 2012; however, rather than wait until L.C. received statements showing those expenses, LBS filed her incomplete tax return, and told L.C. that she could come back and file an amended return once she received the necessary statements. LBS falsely claimed on the Schedule C attached to the tax return that L.C. had a business (not described by name or business type) that had no sales but incurred \$4,438 in car and truck expenses in 2012. L.C. had no business, did not tell the LBS preparer that she had any business, and does not know where the preparer came up with the fabricated business expenses. By claiming a phony business loss of \$4,438 to reduce L.C.'s total income, LBS fraudulently claimed an EITC in the amount of \$5,236 and a bogus refund of \$9,535 on L.C.'s tax return. LBS did not provide L.C. with a copy of her completed tax return.

224. Some of Gachette's customers were deposed by the State of Texas in 2013 as part of its lawsuit against LBS Tax Services. For example, Y.C. and J.M., friends who are both hearing impaired, had their 2012 tax returns prepared at the same time at the LBS store located at 7909 C2 Hillcroft Ave., Houston, Texas. Y.C. communicated with the tax return preparer using sign language through J.M., who has a higher level of hearing. Y.C. and J.M. went to LBS after seeing a sign advertising how much money a customer would receive per child. Y.C. did not work in 2012, but received social security income due to her disability. Y.C. repeatedly told the LBS return preparer that social security was her sole source of income. However, the preparer told Y.C. that Y.C. had to "come up with" other income to report. Y.C. continued to tell the preparer that she had no other income, but the preparer falsely reported – and falsely told Y.C.

that “you have to” report – that Y.C. received income from babysitting business called “Y_____ Baby Care” in 2012. The preparer also had Y.C. sign a blank form on which LBS subsequently filled in the amount of the fee that it charged Y.C., and Y.C. did not know what fees LBS charged until after she received her refund. J.M. worked as a bagger at a grocery store, and also babysat in 2012. J.M. testified that LBS falsely under-reported the amount of expenses that J.M. incurred babysitting. When J.M. told the tax return preparer the amount of her expenses, the preparer responded that “its too much money” and reported a number on the return that the preparer fabricated and that J.M. did not provide. J.M. testified that when she signed the form that stated the amount of fees, the form was blank, and the tax return preparer told her “don’t worry about it.” LBS charged J.M. \$825 to prepare her return, without J.M.’s knowledge.

225. Additional examples of fraudulent activity at LBS stores are set forth in the complaints filed contemporaneously against LBS franchisees. LBS’s fraudulent return preparation is a widespread and systemic problem originating with the franchisor, Gachette.

Investigations and Lawsuits have Not Deterred the Defendant

226. Despite knowing of the widespread and pervasive fraudulent conduct surrounding his tax return preparation business, the IRS’s examinations of LBS customers’ tax returns and assessment of penalties against LBS franchisees and preparers for failing to comply with the due diligence requirements, lawsuits filed by the State of Texas and H & R Block, and the well-publicized complaints, including those by the Better Business Bureau, online consumer protection sites, and various local media outlets throughout the country, Gachette and LBS have not taken any meaningful steps to stop the fraud.

227. In fact, the only apparent change in 2014 is that several LBS stores began doing business under different names. In actuality, nothing has changed in the organizational structure

of the business and LBS, particularly Gachette, collects the same tax return preparation fees and bogus service bureau and transmittal fees.

228. Incredulously, Gachette claims that he is not responsible for the actions of LBS franchisees, managers, and other employees. In reality, LBS corporate policies that facilitate and encourage fraudulent tax return preparation come directly from Gachette, and he continuously exercises his authority over LBS franchisees, managers, tax return preparers, and employees.

229. To the extent that Gachette claims that he does not know of the fraud committed by LBS, his ignorance is deliberate, and he, in furtherance of his own greed, intentionally ignores and turns a blind eye to complaints documenting LBS's fraudulent practices.

230. Gachette has little incentive to stop the wrongdoing because he directly profits from the misconduct at the LBS locations by taking his fees and a percentage of all gross revenues. Accordingly, Gachette promotes a culture of greed that favors volume and profits over accuracy and integrity, and creates an environment where fraudulent tax return preparation and violations of federal tax laws flourish.

231. Ironically, LBS's creed is "Loyalty, Honesty, and No Greed."

Harm Caused by the Defendant

232. Gachette's knowledge and encouragement of fraud at his business, false and misleading statements directed to customers and potential customers, and culture favoring volume and profits over accuracy and integrity, have harmed the public and the United States Treasury. Gachette and LBS franchisees, managers, and tax return preparers prepare false or fraudulent tax returns that understate their customers' correct income tax liabilities and illegally cause LBS customers to incorrectly report their federal tax liabilities and underpay their taxes.

233. Gachette's and LBS's fraudulent practices harm the United States Treasury in the form of lost tax revenue. For instance, the IRS randomly selected 238 customers whose 2012 tax returns were prepared at LBS stores in the Orlando metropolitan area that Gachette directly owned. The IRS interviewed 94 of these customers and reviewed their LBS-prepared returns. The IRS determined that the compliance rate (the number of returns with no errors) from this sample was a mere 7.5%; put another way, 92.5% of the returns in this sample contained errors, with an average tax deficiency of \$2,552 per return. Based on this random sampling and statistical analysis, the IRS estimates that the tax loss from Gachette-owned LBS stores (not including franchisee-owned stores) in the Orlando metropolitan area (not including the stores he directly owns in other parts of Florida and out-of-state) for tax year 2012 alone could be as much as \$7.6 million or more.

234. Gachette's and LBS's customers also have been harmed because they relied on LBS to prepare proper tax returns. Instead, customers' tax returns substantially understated their correct tax liabilities after paying unconscionably high fees to have their tax returns prepared. As a result, many customers, who are often low-income taxpayers, now face large income tax debts and may be liable for sizeable penalties and interest.

235. Customers are harmed by the unconscionably high and frequently undisclosed tax preparation fees and related bogus fees tied to anticipated tax refunds. These fees are subtracted from the erroneous refunds that result from LBS's fraudulent tax return preparation. When the IRS conducts audits or examinations of customers and seeks repayment of these erroneous refunds, the customers are liable for the repayment of those refunds. Not only do customers face the hardship associated with repayment of erroneous refunds resulting from LBS's culture of greed at others' expense, but customers may also have to repay the portion of the refund that

LBS subtracted for its high fees. Customers may also have to pay additional fees to other tax return preparers who will file correct, accurate amended tax returns to correct the fraudulent tax returns that LBS prepared and filed.

236. Other customers are harmed by LBS's fraudulent practices because they have lost or become ineligible for federal and/or state benefits due to the false claims that LBS made on their tax returns.

237. Gachette's and LBS's misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting the fraud and assessing and collecting lost tax revenues from defendants' customers. IRS employees have spent thousands of hours conducting audits or reviewing tax returns prepared by LBS and interviewing hundreds of customers. In addition, IRS employees have devoted still more time making compliance visits to various franchises. Consequently, identifying and recovering all lost tax revenues resulting from LBS's fraudulent and illegal activities may be impossible.

238. Gachette's and LBS's conduct also harms honest tax return preparers who refuse to engage in such illegal conduct. Honest tax return preparers unfairly lose business to LBS as a result of LBS's willingness to break the law. Customers often have their returns prepared with paystubs at LBS because law-abiding preparers do not prepare a tax return without an employer-issued Form W-2. Customers also have their returns prepared at LBS because LBS promises the maximum refund, and delivers by fabricating claims and deductions on customers' returns.

239. Finally, Gachette's and LBS's misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

240. The harm to the government and the public will increase unless Gachette is enjoined because—given the seriousness and pervasiveness of his illegal conduct—without an injunction, Gachette is likely to continue enabling the preparation of false and fraudulent federal income tax returns for customers. The number of LBS stores has increased exponentially over the past 4 years, going from 6 stores in 2010 to at least 239 in 2013, and the stated goal is 1,000 stores by 2016. An injunction will serve the public interest because it will put a stop to Gachette's and LBS's illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I
Injunction under I.R.C. § 7407

241. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694 or § 6695. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694(a), which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;
- b. Engaging in conduct subject to penalty under I.R.C. § 6694(b), which among other conduct, penalizes a return preparer who recklessly or intentionally disregards IRS rules or regulations;

- c. Engaging in conduct subject to penalty under I.R.C. § 6695(g), which penalizes a return preparer who fails to comply with the statutory due diligence requirements;
- d. Guaranteeing the payment of any tax refund or the allowance of any tax credit; or
- e. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

242. Section 7701(a)(36) of the I.R.C. defines tax return preparer to include not only the individual who physically prepares a tax return for compensation, but also anyone “who employs one or more persons” to prepare tax returns for compensation.

243. Gachette, as shown above in paragraphs 1 through 240, is a tax return preparer who has repeatedly and continually prepared or submitted returns or portions of returns (or employed or managed others who prepared or submitted returns or portions of returns) that contain unreasonable positions and substantially understate the liability for tax on the return. Gachette also advises, instructs, directs, and causes LBS franchisees, managers, and preparers to engage in tax fraud, and to prepare federal income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions. Accordingly, Gachette knew (or reasonably should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

244. Gachette and those acting in concert with him and at his direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal tax returns that understate his customers’ liabilities based on unrealistic, frivolous and reckless positions. Gachette, through the actions described above, recklessly or intentionally disregards IRS rules or regulations.

245. Gachette and those acting in concert with him and at his direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The

Treasury regulations promulgated under I.R.C. § 6695(g) prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or her compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6995-2 (2011). Gachette advises, encourages, and causes LBS franchisees, managers, and preparers to circumvent these due diligence requirements and to ignore or disregard the information provided by customers.

246. Gachette's failure to comply with the due diligence requirements for the EITC violates Treasury Regulations and his willingness to falsify information to obtain the EITC for his customers shows a reckless and/or intentional disregard of IRS rules and regulations.

247. Gachette and those acting in concert with him and at his direction have continually and repeatedly prepared federal income tax returns that claim the EITC for customers where he and those acting in concert with him and at his direction have not conducted, let alone documented, the required due diligence procedures.

248. Gachette also fails to comply with I.R.C. § 6695(a), which requires that a tax return preparer provide a copy of the completed tax return to the taxpayer.

249. Gachette's continual and repeated violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A), and thus are subject to an injunction under I.R.C. § 7407.

250. Gachette's continual and repeated fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws falls within I.R.C. § 7407(b)(1)(D), and thus is subject to an injunction under I.R.C. § 7407.

251. Gachette and those acting in concert with him and at his direction have continuously and repeatedly guaranteed refunds to customers and guaranteed the allowance of tax credits, including but not limited to the EITC. This conduct falls within I.R.C. § 7407(b)(1)(C), and thus is subject to an injunction under I.R.C. § 7407.

252. If Gachette is not enjoined from all tax preparation, he and those acting in concert with him and at his direction are likely to continue to prepare and file false and fraudulent tax returns.

253. Gachette's continual and repeated conduct subject to an injunction under I.R.C. § 7407, including his continual and repeated fabrication of expenses and deductions, is so flagrantly illegal and so egregious that it demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Gachette's interference with the proper administration of the internal revenue laws. Accordingly, Gachette should be permanently barred from acting as a federal tax preparer, and from owning, operating, managing, controlling, licensing, franchising, or working for a tax return preparation business.

Count II
Injunction under I.R.C. § 7408

254. Section 7408 of the I.R.C. authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

255. Section 6701(a) of the I.R.C. penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability. Under I.R.C. § 6701(c)(1), the term "procures" includes "ordering (or otherwise causing) a subordinate to do an act," as well as "knowing of, and not attempting to prevent, participation by a subordinate in an act."

256. Gachette, through the actions detailed above in paragraphs 1 through 240, caused the presentation and preparation of false, fraudulent, and abusive tax returns and other documents. Gachette prepares, assists, and/or advises with respect to the presentation and preparation of federal tax returns for customers that he knows will understate their correct tax liabilities, because Gachette knowingly prepares, assists, and/or advises with respect to the presentation and preparation of returns claiming bogus expenses and deductions. Gachette procured and assisted the preparation of false and fraudulent tax returns by encouraging the filing of tax returns he knew were false or fraudulent, and by employing, training, and supervising tax return preparers engaging in tax fraud. Gachette's conduct is thus subject to a penalty under I.R.C. § 6701.

257. In addition, Gachette has not altered his behavior despite being previously warned and assessed penalties for similar conduct. Gachette is likely to continue violating the law absent an injunction. Tax return preparation is Gachette's primary source of revenue. To maximize that income, Gachette instructs and directs his franchisees, managers, and preparers to prepare fraudulent returns. That fraudulent conduct, in turn, gives Gachette a competitive edge over law-abiding preparers. It also provides a means for Gachette to further exploit his customers by charging them unconscionably high fees, while Gachette's fraud simultaneously and callously exposes his customers to possible civil and criminal liability.

258. If the Court does not enjoin Gachette, he is likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Gachette's, and those acting in concert with him and at his direction, preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction and Disgorgement under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

259. Section 7402 of the I.R.C. authorizes a district court to issue injunctions, orders, judgments, and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

260. Gachette, through the actions described above in paragraphs 1 through 240, including, but not limited to, intentionally understating his customers' tax liabilities and charging unconscionable and undisclosed fees for the preparation of federal tax returns that intentionally understate his customers' tax liabilities, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

261. Unless enjoined, Gachette and those acting in concert with him and at his direction are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Gachette is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

262. While the United States will suffer irreparable injury if Gachette is not enjoined, Gachette will not be harmed by being compelled to obey the law.

263. Enjoining Gachette is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Gachette's illegal conduct and the harm it causes the United States and to his customers.

264. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

265. Gachette's conduct, which substantially interferes with the enforcement of the internal revenue laws, caused the United States to issue tax refunds to individuals not entitled to

receive them, and Gachette has unjustly profited at the expense of the United States by subtracting his exorbitant fees from those refunds.

266. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Gachette to disgorge to the United States the proceeds that Gachette and his businesses received for the preparation of federal tax returns that make false or fraudulent claims.

WHEREFORE, the United States of America prays for the following:

A. That the Court find that Walner G. Gachette has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and has continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Walner G. Gachette from acting as a federal tax return preparer;

C. That the Court find that Walner G. Gachette has engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Walner G. Gachette has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Walner G. Gachette, and all those in active concert or participation with him, from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (2) preparing or assisting in preparing federal tax returns that he knows or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Walner G. Gachette to immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that he owns directly or through Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, International Hiring, LLC, or any other entity, and whether those stores do business as LBS Tax Services or under any other name;

G. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order appointing a receiver to sell all of the hard assets, such as computers (after any and all taxpayer information has been removed), electronics, and furniture, for all tax return preparation stores that Walner G.

Gachette owns directly or through Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, International Hiring, LLC, or any other entity, and whether those stores do business as LBS Tax Services or under any other name;

H. That the Court, pursuant to I.R.C. § 7402(a), enter an order prohibiting Walner G. Gachette, directly or through Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, International Hiring, LLC, or any other entity, from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to LBS Tax Services or any other tax return preparation business to which he or any entity under his control is a party;

I. That the Court, pursuant to I.R.C. § 7402(a), enter an order barring Walner G. Gachette from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Walner G. Gachette, LBS Tax Services, Loan Buy Sell, Inc., and any other business or name through which Gachette or those acting at his direction have at any time since 2008 prepared a tax return; (2) assigning, disseminating, providing, or giving to any current or former franchisee, General Sales Manager, District Sales Manager, manager, tax return preparer, employee, or independent contractor of Gachette, LBS Tax Services, Loan Buy Sell, Inc., or any other business through which Gachette prepares tax returns or owns or franchises a tax return preparation business, a list of customers or any other customer information for customers for whom Walner G. Gachette, LBS Tax Services, Loan Buy Sell, Inc., and any other business or name through which Gachette or those acting at his direction have at any time since 2008 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to LBS Tax Services, Loan Buy Sell, Inc., and any other business or name through which Gachette or those acting at his direction have at any time since 2008 prepared a tax return;

J. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Walner G. Gachette to disgorge to the United States the proceeds (the amount of which is to be determined by the Court) that Walner G. Gachette, LBS Tax Services, Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, International Hiring, LLC, received (in the form of fees) for the preparation of tax returns that make or report false or fraudulent claims, deductions, credits, income, expenses, or other information that results in the understatement of taxes, prepared since 2008 at all LBS Tax Services stores;

K. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Walner G. Gachette to contact, within thirty days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom Walner G. Gachette and his franchisees, General Sales Managers, District Sales Managers, managers, employees, independent contractors, and tax return preparers prepared federal tax returns or claims for a refund for tax years 2008 through 2013 to inform them of the permanent injunction entered against him, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court;

L. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Walner G. Gachette to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom Walner G. Gachette and his franchisees, managers, and preparers prepared federal tax returns or claims for a refund for tax years beginning in 2008 and continuing through this litigation;

M. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Walner G. Gachette to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, address, e-mail address, and telephone number all principals, officers, franchisees, General Sales Managers, District Sales Managers, managers, employees, independent contractors, and tax return preparers of Gachette, LBS Tax Services, Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, and International Hiring, LLC from 2008 to the present;

N. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Walner G. Gachette to provide a copy of the Court's order to all principals, officers, franchisees, General Sales Managers, District Sales Managers, managers, employees, independent contractors, and tax return preparers of Gachette, LBS Tax Services, Loan Buy Sell, Inc., Gachette, LLC, WG Group, LLC, ZGT Group, LLC, JGT Group, LLC, and International Hiring, LLC within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom Walner G. Gachette provided a copy of the Court's order;

O. That the Court retain jurisdiction over Walner G. Gachette and over this action to enforce any permanent injunction entered against him;


P. That the United States be entitled to conduct discovery to monitor Walner G. Gachette's compliance with the terms of any permanent injunction entered against him; and

Q. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: September 23, 2014

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